

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Special District Local
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Chapter 11005
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5 CHAPTER 11005. MUENSTER WATER DISTRICT

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Revised Law

8 Sec. 11005.001. DEFINITIONS. In this chapter:

9 (1) "Board" means the board of directors of the
10 district.

11 (2) "City" means the city of Muenster.

12 (3) "City council" means the city council of the city.

13 (4) "Director" means a member of the board appointed
14 by the city council.

15 (5) "District" means the Muenster Water District.
16 (Acts 63rd Leg., R.S., Ch. 619, Secs. 1 (part), 2 (part), 4(a)
17 (part); New.)

18 Source Law

19 Sec. 1. the "Muenster Water District"
20 (hereinafter called "district"),

21 Sec. 2. the City of Muenster, in Cooke
22 County, State of Texas (hereinafter called the
23 "city"),

24 Sec. 4. (a) [The district shall be governed by
25 a Board of Directors] (hereinafter called the
26 "board"), [composed of five members,] entitled
27 directors, The five regular directors shall be
28 appointed by the City Council of the City of
29 Muenster.

30 Revisor's Note

31 (1) The definition of "city council" is added to
32 the revised law for drafting convenience and to
33 eliminate frequent, unnecessary repetition of the
34 substance of the definition.

35 (2) Section 4(a), Chapter 619, Acts of the 63rd
36 Legislature, Regular Session, 1973, refers to "regular
37 directors." Throughout this chapter, the revised law
38 omits "regular" when used in this context because it is

unnecessary to distinguish between "regular" directors and other directors. It is clear from Section 4(a) that the board is governed by five directors, each of whom is appointed by the city council of the city of Muenster, and the revised law defines "director" to mean a member of the board appointed by the city council. Although Section 4(a) also provides that the mayor of the city of Muenster serves as an honorary member of the board (see the portion of Section 4(a) revised as Section 11005.101 of this chapter), the mayor is not a director because the mayor is not appointed to the board by the city council and the mayor, while serving as an honorary board member, may not vote.

Revised Law

Sec. 11005.002. NATURE OF DISTRICT. The district is a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution. (Acts 63rd Leg., R.S., Ch. 619, Sec. 1 (part).)

Source Law

Sec. 1. By virtue of Article XVI, Section 59 of the Texas Constitution, there is hereby created a conservation and reclamation district to be known as the "Muenster Water District" . . . which shall be a governmental agency and a body politic and corporate.

Revisor's Note

Section 1, Chapter 619, Acts of the 63rd Legislature, Regular Session, 1973, refers to the district as "a governmental agency and a body politic and corporate." The revised law omits the quoted language because it duplicates a portion of Section 59(b), Article XVI, Texas Constitution, which provides that a conservation and reclamation district is a governmental agency and a body politic and corporate.

Revised Law

Sec. 11005.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

1 (a) All territory and taxable property in the city will benefit
2 from the works and improvements of the district.

3 (b) The accomplishment of the purposes stated in this
4 chapter will benefit the people of this state and improve their
5 property and industries.

6 (c) The district, in carrying out the purposes of this
7 chapter, will be performing an essential public function under the
8 constitution. (Acts 63rd Leg., R.S., Ch. 619, Secs. 2 (part), 22
9 (part).)

10 Source Law

11 Sec. 2. [The district shall contain all of the
12 territory contained in the boundaries of the City of
13 Muenster] . . . it being hereby found and determined
14 that all of the territory and taxable property
15 contained within the boundaries of said City will be
16 benefited by the works and improvements of the
17 district.

18 Sec. 22. The accomplishment of the purposes
19 stated in this Act is for the benefit of the people of
20 this state and for the improvement of their properties
21 and industries, and the district, in carrying out the
22 purposes of this Act will be performing an essential
23 public function under the Constitution. . . .

24 Revisor's Note
25 (End of Subchapter)

26 Section 3, Chapter 619, Acts of the 63rd
27 Legislature, Regular Session, 1973, provides that an
28 election must be held to confirm the creation of the
29 district. Section 13, Chapter 619, Acts of the 63rd
30 Legislature, Regular Session, 1973, requires that an
31 election be held to determine if the proposed district
32 shall be established before issuing any bonds or other
33 obligations. The revised law omits those provisions
34 as executed because the confirmation election has been
35 held. The omitted law reads:

36 Sec. 3. The city shall call an
37 election for the confirmation of the
38 creation of the district in the same manner
39 as city elections are held, pursuant to
40 Chapter 1 of Title 22 of Vernon's Texas
41 Statutes. The ballots shall have printed
42 thereon "FOR THE DISTRICT" or "AGAINST THE
43 DISTRICT". The election shall be conducted
44 as provided for city elections in the Texas

1 Election Code. If a majority of the votes
2 cast in the election favor the creation of
3 the district, the district shall be
4 created. If the election fails to carry, the
5 city may re-call such election.

6 Sec. 13. Before issuing any bonds or
7 other obligations an election shall be held
8 within the boundaries of the proposed
9 district to determine if the proposed
10 district shall be established; and such
11 election and notice thereof shall be held
12 and given in the manner provided by Chapter
13 54, Texas Water Code.

14 SUBCHAPTER B. DISTRICT TERRITORY; ANNEXATION

15 Revised Law

16 Sec. 11005.051. DISTRICT TERRITORY. (a) The boundaries of
17 the district are coextensive with the boundaries of the city as
18 those boundaries existed on January 1, 1973, and as the district
19 territory may have been modified under:

20 (1) this subchapter or its predecessor statute,
21 Section 7, Chapter 619, Acts of the 63rd Legislature, Regular
22 Session, 1973;

23 (2) Subchapter J, Chapter 49, Water Code; or

24 (3) other law.

25 (b) An invalidity in the fixing of the boundaries of the
26 city as they existed on January 1, 1973, does not affect the
27 boundaries of the district. (Acts 63rd Leg., R.S., Ch. 619, Sec. 2
28 (part); New.)

29 Source Law

30 Sec. 2. The district shall contain all of the
31 territory contained in the boundaries of the City of
32 Muenster, in Cooke County, State of Texas . . . as the
33 boundaries of said city existed on January 1, 1973. It
34 is provided, however, that no invalidity in the fixing
35 of such boundaries shall affect the boundaries of the
36 territory contained in this district,

37 Revisor's Note

38 For the reader's convenience, the revised law
39 includes references to statutory authority to change
40 the district's territory under this chapter and
41 Subchapter J, Chapter 49, Water Code, applicable to
42 the district under Sections 49.001 and 49.002 of that
43 chapter. The revised law also includes a reference to

1 the general authority of the legislature to enact
2 other laws to change the district's territory.

3 Revised Law

4 Sec. 11005.052. ANNEXATION OF CITY TERRITORY. (a)
5 Territory annexed to the city after January 1, 1973, may be annexed
6 to the district as provided by this section.

7 (b) At any time after final passage of an ordinance or
8 resolution annexing territory to the city, the board may give
9 notice of a hearing on the question of annexing that territory to
10 the district. The notice is sufficient if it:

11 (1) states the date and place of the hearing; and

12 (2) describes the territory proposed to be annexed or
13 refers to the annexation ordinance or resolution of the city.

14 (c) At least 10 days before the date set for the hearing, the
15 notice must be published one time in a newspaper of general
16 circulation in the city.

17 (d) If, as a result of the hearing, the board finds that the
18 territory will benefit from the present or contemplated
19 improvements, works, or facilities of the district, the board shall
20 adopt a resolution annexing the territory to the district.

21 (e) After the territory is annexed to the district, the
22 board may hold an election in the entire district to determine
23 whether:

24 (1) the entire district will assume any tax-supported
25 bonds then outstanding and those bonds previously voted but not yet
26 sold; and

27 (2) an ad valorem tax for the payment of the bonds will
28 be imposed on all taxable property in the district.

29 (f) An election held under Subsection (e) must be held and
30 notice must be given in the same manner as an election is held and
31 notice is given under Section 11005.254 for the issuance of bonds.
32 (Acts 63rd Leg., R.S., Ch. 619, Secs. 7 (part), (a), (b), (c), (d).)

33 Source Law

34 Sec. 7. Territory annexed after January 1,

1 1973, to the city may be annexed to the district in the
2 following manner, to-wit:

3 (a) At any time after final passage of an
4 ordinance or resolution annexing territory to the
5 city, the board may issue a notice of hearing on the
6 question of annexing said territory to the district.
7 Such notice shall be sufficient if it states the date
8 and place of the hearing and a description of the area
9 proposed to be annexed, but in lieu of such description
10 the notice may make reference to the annexation
11 ordinance or resolution of the city.

12 (b) The notice shall be published one time in a
13 newspaper having general circulation in the city, such
14 publication to be at least 10 days before the date set
15 for the hearing.

16 (c) If, pursuant to such hearing, the board
17 finds that the territory proposed to be annexed will be
18 benefited by the then present or contemplated
19 improvements, works or facilities of the district, the
20 board shall adopt a resolution annexing said territory
21 to the district.

22 (d) After such territory is added to the
23 district, the board may call an election over the
24 entire district for the purpose of determining whether
25 the entire district as enlarged shall assume any tax
26 supported bonds then outstanding and those theretofore
27 voted but not yet sold and whether an ad valorem tax
28 shall be levied upon all taxable property within the
29 district as enlarged for the payment thereof. Such
30 election shall be called and held and notice thereof
31 given in the same manner as elections for the issuance
32 of bonds as provided in this Act.

33 Revisor's Note

34 (1) Section 7(d), Chapter 619, Acts of the 63rd
35 Legislature, Regular Session, 1973, provides that
36 after territory has been annexed, the board may "call"
37 an election that is "called and held" in the same
38 manner as a bond election. The revised law omits
39 "call" and "called" because, in this context, "call"
40 or "called" is included in the meaning of holding an
41 election. Under Chapter 3, Election Code, all
42 elections must be ordered (called) before they may be
43 held.

44 (2) Section 7(d), Chapter 619, Acts of the 63rd
45 Legislature, Regular Session, 1973, refers to an
46 election after the annexation of territory to
47 determine whether an ad valorem tax shall be "levied"
48 on all taxable property in the district as enlarged.
49 The revised law substitutes "imposed" for "levied."
50 Throughout this chapter, the revised law substitutes

1 "impose" for "assess," "levy," "collect," and similar
2 terms because "impose" is the term generally used in
3 Title 1, Tax Code, and includes the assessment,
4 levying, and collection of a tax.

5 (3) Section 7(d), Chapter 619, Acts of the 63rd
6 Legislature, Regular Session, 1973, requires that an
7 election on the assumption of bonds by the district as
8 enlarged and the imposition of an ad valorem tax to pay
9 the bonds be called and held and notice be given "in
10 the same manner as elections for the issuance of bonds
11 as provided in this Act." For the reader's
12 convenience, the revised law adds a reference to
13 Section 11005.254 of this chapter, because that is
14 where the provisions of the act providing for bond
15 elections are revised.

16 Revised Law

17 Sec. 11005.053. ANNEXATION OF OTHER TERRITORY. (a)
18 Territory other than territory subject to Section 11005.052 may be
19 annexed to the district as provided by this section.

20 (b) The board may annex territory or a municipality under
21 this section only if a petition requesting annexation is signed by
22 50 registered voters of the territory or municipality to be
23 annexed, or a majority of the registered voters of that territory or
24 municipality, whichever is fewer, and is filed with the board. The
25 petition must describe the territory to be annexed by metes and
26 bounds, or otherwise. If the territory is the same as that
27 contained in the boundaries of a municipality, the petition is
28 sufficient if it states that the territory to be annexed is the
29 territory contained in the municipal boundaries.

30 (c) If the board finds that the petition complies with
31 Subsection (b), that the annexation would be in the best interest of
32 the territory or municipality and the district, and that the
33 district will be able to supply water to the territory or
34 municipality, the board shall:

1 (1) adopt a resolution stating the conditions, if any,
2 under which the territory or municipality may be annexed to the
3 district; and

4 (2) set a time and place to hold a hearing on the
5 question of whether the territory or municipality to be annexed
6 will benefit from:

7 (A) the improvements, works, or facilities owned
8 or operated or contemplated to be owned or operated by the district;
9 or

10 (B) the other functions of the district.

11 (d) At least 10 days before the date of the hearing, notice
12 of the adoption of the resolution stating the time and place of the
13 hearing must be published one time in a newspaper of general
14 circulation in the territory or municipality proposed to be
15 annexed. The notice must describe the territory in the same manner
16 in which Subsection (b) requires or permits the petition to
17 describe the territory.

18 (e) Any interested person may appear at the hearing and
19 offer evidence for or against the annexation.

20 (f) The hearing may proceed in the order and under the rules
21 prescribed by the board. The hearing may be recessed from time to
22 time.

23 (g) If, at the conclusion of the hearing, the board finds
24 that the property in the territory or municipality will benefit
25 from the present or contemplated improvements, works, or facilities
26 of the district, the board shall adopt a resolution making a finding
27 of the benefit and calling an election in the territory or
28 municipality to be annexed.

29 (h) The resolution must state:

30 (1) the date of the election;

31 (2) each place where the election will be held; and

32 (3) the proposition to be voted on.

33 (i) At least 10 days before the date set for the election,
34 notice of the election must be given by publishing a substantial

1 copy of the resolution calling the election one time in a newspaper
2 of general circulation in the territory proposed to be annexed.

3 (j) In calling an election on the proposition for annexation
4 of the territory or municipality, the board may include, as part of
5 the same proposition or as a separate proposition, a proposition
6 for:

7 (1) the territory to assume its part of the
8 tax-supported bonds of the district then outstanding and those
9 bonds previously voted but not yet sold; and

10 (2) an ad valorem tax to be imposed on taxable property
11 in the territory along with the tax in the rest of the district for
12 the payment of the bonds.

13 (k) If a majority of the votes cast at the election are in
14 favor of annexation, the board by resolution shall annex the
15 territory to the district.

16 (l) An annexation under this section is incontestable
17 except in the manner and within the time for contesting elections
18 under the Election Code. (Acts 63rd Leg., R.S., Ch. 619, Sec. 7(e)
19 (part).)

20 Source Law

21 (e) Other territory may be annexed to the
22 District in the following manner:

23 (1) A petition praying for such annexation
24 signed by fifty (50) or a majority, whichever number is
25 smaller, of the resident, qualified voters of the
26 territory or of duly incorporated cities or towns,
27 sought to be annexed shall be filed with the board.
28 The petition shall describe the territory to be
29 annexed by metes and bounds, or otherwise, unless such
30 territory is the same as that contained within the
31 boundaries of such city or town, in which event it
32 shall be sufficient to state that the territory to be
33 annexed is that which is contained within the
34 boundaries of such city or town.

35 (2) If the board finds that the petition
36 complies with, and is signed by the number of qualified
37 persons required by the foregoing subsection, that the
38 annexation would be to the best interest of the
39 territory, city or town, and the district, and that the
40 district will be able to supply water, or cause water
41 to be supplied to the territory, city or town, it shall
42 adopt a resolution stating the conditions, if any,
43 under which such territory, city or town, may be
44 annexed to the district, and shall fix a time and place
45 when and where a hearing shall be held by the board on
46 the question of whether the territory, city or town,
47 sought to be annexed will be benefited by the

1 improvements, works, and facilities then owned or
2 operated or contemplated to be owned or operated by the
3 district or by the other functions of the district.
4 Notice of the adoption of such resolution stating the
5 time and place of such hearing shall be published one
6 (1) time in a newspaper of general circulation in the
7 territory, city or town, sought to be annexed at least
8 ten (10) days prior to the date of such hearing. The
9 notice shall describe the territory in the same manner
10 in which it is required or permitted by this Act to be
11 described in the petition. All persons interested may
12 appear at such hearing and offer evidence for or
13 against the proposed annexation. Such hearing may
14 proceed in such order and under such rules as may be
15 prescribed by the board, and the hearing may be
16 recessed from time to time. If, at the conclusion of
17 the hearing, the board finds that the property in such
18 territory, city or town, will be benefited by the
19 present or contemplated improvements, works or
20 facilities of the district, the board shall adopt a
21 resolution making a finding of such benefit and
22 calling an election in the territory, city or town,
23 proposed to be annexed stating therein the date of the
24 election, the place or places of holding the same, the
25 proposition to be voted on and

26 Notice of such election shall be given by
27 publishing a substantial copy of the resolution
28 calling the election one (1) time in a newspaper of
29 general circulation in the territory sought to be
30 annexed to the district at least ten (10) days before
31 the date set for the election. . . . If . . . a
32 majority of the votes cast are in favor of annexation
33 the board shall by resolution annex said territory to
34 the district, and such annexation shall thereafter be
35 incontestable except in the manner and within the time
36 for contesting elections under the General Election
37 Code.

38 (3) The board, in calling an election on
39 the proposition for annexation of territory, city or
40 town, may include as a part of the same proposition, or
41 a separate proposition for the assumption of its part
42 of the tax supported bonds of the district then
43 outstanding and those theretofore voted but not yet
44 sold, and for the levy of an ad valorem tax on taxable
45 property in said territory along with the tax in the
46 rest of the district for the payment thereof

47 Revisor's Note

48 (1) Section 7(e)(1), Chapter 619, Acts of the
49 63rd Legislature, Regular Session, 1973, refers to
50 "resident, qualified voters" of the territory or
51 municipality proposed to be annexed. The revised law
52 substitutes "registered voters" for the quoted
53 language because in the context of eligibility to sign
54 a petition, Section 277.0021, Election Code, provides
55 that "qualified voter" means a "registered voter."

56 (2) Section 7, Chapter 619, Acts of the 63rd
57 Legislature, Regular Session, 1973, refers to a "city"

1 or "town" and to "duly incorporated cities or towns."
2 The revised law substitutes "municipality" for "city"
3 or "town" because the terms are synonymous and
4 "municipality" is the term used in the Local
5 Government Code. The revised law omits "duly
6 incorporated" because, under the Local Government
7 Code, all municipalities must be incorporated.

8 (3) Section 7(e)(2), Chapter 619, Acts of the
9 63rd Legislature, Regular Session, 1973, refers to a
10 finding by the board that the district will be able to
11 "supply water, or cause water to be supplied." The
12 revised law omits the reference to "cause water to be
13 supplied" because it is included in the meaning of
14 "supply water."

15 (4) Section 7(e)(2), Chapter 619, Acts of the
16 63rd Legislature, Regular Session, 1973, provides that
17 the board shall "fix a time and place" for a hearing on
18 the question of annexation. The revised law
19 substitutes "set" for "fix" because the terms are
20 synonymous in this context and "set" is more commonly
21 used.

22 (5) Section 7(e)(2), Chapter 619, Acts of the
23 63rd Legislature, Regular Session, 1973, requires
24 notice by publication to describe the territory to be
25 annexed in the same manner in which it is "required or
26 permitted by this Act" to be described in the petition.
27 The provisions for describing the territory in the
28 petition are revised in Subsection (b) of this
29 section. The revised law is drafted accordingly.

30 (6) Section 7(e)(2), Chapter 619, Acts of the
31 63rd Legislature, Regular Session, 1973, requires the
32 board to adopt a resolution regarding the appointment
33 of judges and clerks for each voting place. The
34 revised law omits the provision as superseded by the

1 1985 enactment of the Election Code, applicable to the
2 district under Section 1.002, Election Code. Chapter
3 32, Election Code, governs the selection of election
4 judges and clerks. The omitted law reads:

5 (2) . . . [the board shall
6 adopt a resolution] . . . appointing a
7 presiding judge for each voting place who
8 shall appoint the necessary assistant
9 judges and clerks to assist in holding the
10 election.

11 . . .

12 (7) Section 7(e)(2), Chapter 619, Acts of the
13 63rd Legislature, Regular Session, 1973, restricts
14 certain voting to "constitutionally qualified
15 electors who reside in the territory, city or town,
16 sought to be annexed." Similarly, Section 7(e)(3) of
17 that chapter restricts certain voting to
18 "constitutionally qualified electors." Throughout
19 this chapter, the revised law omits such provisions as
20 unnecessary because Chapter 11, Election Code, governs
21 eligibility to vote in an election in this state and
22 allows only "qualified voters" who are residents of
23 the territory covered by the election to vote in an
24 election. In addition, as a general principle of law,
25 all state statutes, including the Election Code, must
26 be consistent with the constitution. The omitted law
27 reads:

28 (2) . . . Only constitutionally
29 qualified electors who reside in the
30 territory, city or town, sought to be
31 annexed shall be qualified to vote in said
32 election. . . .

33 (3) . . . in which event the
34 voting shall be restricted to
35 constitutionally qualified electors.

36 (8) Section 7(e)(2), Chapter 619, Acts of the
37 63rd Legislature, Regular Session, 1973, states that
38 the board shall receive and canvass the election
39 returns and adopt an order declaring the results. The
40 revised law omits this provision as superseded by the

1 1985 enactment of the Election Code, applicable to the
2 district under Section 1.002, Election Code. Chapter
3 67, Election Code, provides for the canvass of
4 elections. The omitted law reads:

5 (2) . . . Returns of the result
6 of said election shall be made to the board.
7 The board shall canvass the returns of the
8 election and adopt an order declaring the
9 results thereof. [If] such order shows that
10

11 Revised Law

12 Sec. 11005.054. DETACHMENT OF DISTRICT TERRITORY AFTER
13 ISSUANCE OF BONDS. Territory may not be detached from the district
14 after the issuance of bonds payable from revenue or taxes, or both
15 revenue and taxes. (Acts 63rd Leg., R.S., Ch. 619, Sec. 17(a)
16 (part).)

17 Source Law

18 (a) . . . No territory shall be detached from
19 the district after the issuance of bonds which are
20 payable from revenues or taxes or both. . . .

21 SUBCHAPTER C. BOARD OF DIRECTORS

22 Revised Law

23 Sec. 11005.101. COMPOSITION OF BOARD; TERMS. (a) The
24 district is governed by a board of five directors appointed by the
25 city council. The directors occupy numbered places on the board.

26 (b) Directors serve staggered two-year terms, with the
27 terms of the directors occupying Places 1, 2, and 3 expiring at
28 midnight on March 1 of each odd-numbered year and the terms of the
29 directors occupying Places 4 and 5 expiring at midnight on March 1
30 of each even-numbered year.

31 (c) The mayor of the city serves, ex officio, as an honorary
32 board member. The mayor may attend all board meetings and
33 participate in all board proceedings except that the mayor may not
34 vote. (Acts 63rd Leg., R.S., Ch. 619, Sec. 4(a) (part).)

35 Source Law

36 Sec. 4. (a) The district shall be governed by a
37 Board of Directors [(hereinafter called the "board"),]
38 composed of five members, [entitled directors,] who
39 shall occupy places on the board to be designated as

1 Places 1, 2, 3, 4, and 5, respectively. [Three initial
2 directors shall be appointed to occupy Places 1, 2, and
3 3 and to hold office for terms expiring at 12:00 a. m.
4 on March 1, 1975, and two initial directors shall be
5 appointed to occupy Places 4 and 5, and to hold office
6 for terms expiring at 12:00 a. m. on March 1, 1974.]
7 The Mayor of the City of Muenster shall, ex officio,
8 serve as an honorary member entitled to attend all
9 meetings of the board and participate in all
10 proceedings of the board, except that he or she shall
11 not have a vote. The five regular directors shall be
12 appointed by the City Council of the City of Muenster.
13 Each regular director appointed to succeed an initial
14 regular director shall be appointed to hold office for
15 a term of two years, commencing at 12:00 a. m. on March
16 1 of the applicable year;

17 Revisor's Note

18 Section 4(a), Chapter 619, Acts of the 63rd
19 Legislature, Regular Session, 1973, refers to the
20 initial directors and their terms of office. The
21 revised law omits those provisions as executed. The
22 omitted law reads:

23 (a) . . . Three initial directors
24 shall be appointed to occupy Places 1, 2,
25 and 3 and to hold office for terms expiring
26 at 12:00 a. m. on March 1, 1975, and two
27 initial directors shall be appointed to
28 occupy Places 4 and 5, and to hold office
29 for terms expiring at 12:00 a. m. on March
30 1, 1974. . . .

31 Revised Law

32 Sec. 11005.102. COMPENSATION OF DIRECTORS. (a) A director
33 may not receive any remuneration or emolument of office, but the
34 director is entitled to reimbursement for the actual expenses
35 incurred in performing the director's duties, to the extent
36 authorized and permitted by the board.

37 (b) In all areas of conflict with Subsection (a) of this
38 section, Section 49.060, Water Code, takes precedence.

39 (c) A director's compensation may be increased as
40 authorized by Section 49.060, Water Code, by resolution adopted by
41 the board in accordance with Subsection (e) of that section on or
42 after September 1, 1995. (Acts 63rd Leg., R.S., Ch. 619, Sec. 5(a);
43 New.)

44 Source Law

45 Sec. 5. (a) The directors shall not receive
46 any remuneration or emolument of office, but they

1 shall be entitled to reimbursement for their actual
2 expenses incurred in performing their duties, to the
3 extent authorized and permitted by the board.

4 Revisor's Note

5 Section 5(a), Chapter 619, Acts of the 63rd
6 Legislature, Regular Session, 1973, provides that
7 "directors shall not receive any remuneration or
8 emolument of office, but they are entitled to
9 reimbursement for their actual expenses incurred in
10 performing their duties, to the extent authorized and
11 permitted by the board." Section 49.060, Water Code,
12 enacted in 1995 and applicable by its own terms to the
13 district, provides for a director's fees of office,
14 computed on a rate per day of certain service, and
15 Subsection (a-1) of that section, enacted in 2003,
16 requires the board of each district to adopt a
17 resolution limiting a director's total annual fees of
18 office. Section 49.060(e) provides that, in all areas
19 of conflict, Section 49.060 takes precedence over all
20 prior statutory enactments and that, if the enactment
21 of that section would result in a fee increase, the
22 increase does not apply to a district unless the board
23 by resolution authorizes payment of the higher fees.
24 It is unclear to what extent the quoted language may be
25 in conflict with Section 49.060. To preserve the
26 ambiguity, the revised law includes the substance of
27 the quoted language and adds provisions necessary to
28 preserve the effect of Section 49.060 to the extent of
29 a conflict with that language.

30 Revised Law

31 Sec. 11005.103. QUALIFICATIONS FOR OFFICE. (a) To be
32 eligible to be appointed or to serve as a director, a person:

33 (1) must be a resident, qualified voter of the
34 district;

35 (2) must not hold any other public office; and

1 (3) must not be an officer or employee of the city.

2 (b) A director is eligible for reappointment. (Acts 63rd
3 Leg., R.S., Ch. 619, Secs. 4(a) (part), (b).)

4 Source Law

5 (a) . . . Each director shall be eligible for
6 reappointment. . . .

7 (b) To be eligible to be appointed or serve as a
8 regular director, a person must be a resident,
9 qualified elector of the State of Texas and of the
10 district; and not hold any other public office or be an
11 officer or employee of the city.

12 Revisor's Note

13 (1) Section 4(b), Chapter 619, Acts of the 63rd
14 Legislature, Regular Session, 1973, refers to an
15 "elector" of the district. Throughout this chapter,
16 the revised law substitutes "voter" for "elector"
17 because the terms are synonymous and "voter" is the
18 term used in the Election Code.

19 (2) Section 4(b), Chapter 619, Acts of the 63rd
20 Legislature, Regular Session, 1973, requires a
21 director to be a qualified elector (or "voter" under
22 the terminology of the Election Code (see Revisor's
23 Note (1) to this section)) of the State of Texas and of
24 the district. The revised law omits the reference to
25 the State of Texas because a qualified voter of the
26 district is necessarily a qualified voter of the
27 state.

28 Revised Law

29 Sec. 11005.104. VACANCIES. Any vacancy occurring on the
30 board shall be filled for the unexpired term by appointment in the
31 manner in which the vacating director was appointed. (Acts 63rd
32 Leg., R.S., Ch. 619, Sec. 4(a) (part).)

33 Source Law

34 (a) . . . Any vacancy occurring on the board
35 through death, resignation, or otherwise, shall be
36 filled by appointment in the manner in which the
37 vacating director was appointed, to hold office until
38 the expiration of the term for which the vacating
39 director had been appointed.

1 Revisor's Note

2 Section 4(a), Chapter 619, Acts of the 63rd
3 Legislature, Regular Session, 1973, refers to a
4 vacancy occurring on the board "through death,
5 resignation, or otherwise." The revised law omits the
6 quoted language because it describes every manner in
7 which a vacancy may occur without limiting in any way
8 the city council's duty to fill a vacancy.

9 Revised Law

10 Sec. 11005.105. REMOVAL FROM OFFICE. (a) After reasonable
11 notice and a public hearing, the board may remove a director from
12 office for misfeasance, malfeasance, or wilful neglect of duty.

13 (b) Reasonable notice and a public hearing are not required
14 if the notice and hearing are expressly waived in writing. (Acts
15 63rd Leg., R.S., Ch. 619, Sec. 4(c).)

16 Source Law

17 (c) Any director may be removed from office by
18 the board for misfeasance, malfeasance, or willful
19 neglect of duty, but only after reasonable notice and
20 public hearing, unless the notice and public hearing
21 are expressly waived in writing.

22 Revised Law

23 Sec. 11005.106. BOARD RESOLUTIONS; QUORUM; VOTING
24 REQUIREMENTS. (a) The district shall act through resolutions
25 adopted by the board.

26 (b) Three directors constitute a quorum.

27 (c) Each director has a vote.

28 (d) The affirmative vote of at least three directors is
29 necessary to adopt any resolution. (Acts 63rd Leg., R.S., Ch. 619,
30 Sec. 5(c).)

31 Source Law

32 (c) Any three regular directors appointed shall
33 constitute a quorum, and all regular directors shall
34 have a vote. The district shall act and proceed by and
35 through resolutions adopted by the board, and the
36 affirmative vote of at least three of the directors
37 shall be necessary to adopt any resolution.

1 incapacitated. . . .

2 Revised Law

3 Sec. 11005.109. MEETINGS. The board shall have regular
4 meetings at times specified by board resolution and shall have
5 special meetings when called by the board president or by any three
6 directors. (Acts 63rd Leg., R.S., Ch. 619, Sec. 5(e).)

7 Source Law

8 (e) The board shall have regular meetings at
9 times specified by resolution of the board, and shall
10 have special meetings whenever called by the
11 president, or whenever called by any three of the
12 directors.

13 Revised Law

14 Sec. 11005.110. PERSONAL LIABILITY OF DIRECTORS. A
15 director is not personally liable for any bond issued or contract
16 executed by the district. (Acts 63rd Leg., R.S., Ch. 619, Sec.
17 5(f).)

18 Source Law

19 (f) No director shall be liable personally for
20 any bonds issued, or contracts executed, by the
21 district.

22 Revisor's Note
23 (End of Subchapter)

24 Section 4(a), Chapter 619, Acts of the 63rd
25 Legislature, Regular Session, 1973, provides that a
26 director holds over in office until the director's
27 successor has been appointed and has qualified. The
28 revised law omits the provision because it duplicates
29 in substance Section 17, Article XVI, Texas
30 Constitution, which provides that an officer in this
31 state continues to perform the officer's official
32 duties until a successor has qualified. The omitted
33 law reads:

34 (a) . . . provided that a director
35 shall hold over in office past the
36 expiration of his term until his successor
37 shall have been appointed and has
38 qualified, in the event such appointment
39 and qualification shall not have occurred
40 by the expiration of such term. . . .

1 SUBCHAPTER D. POWERS AND DUTIES

2 Revised Law

3 Sec. 11005.151. DISTRICT POWERS. The district may exercise
4 any power necessary or appropriate to achieve the purposes of this
5 chapter, including the power to:

6 (1) sue and be sued, and plead and be impleaded, in its
7 own name;

8 (2) adopt an official seal;

9 (3) adopt and enforce bylaws and rules for the conduct
10 of its affairs;

11 (4) acquire, hold, use, and dispose of its receipts
12 and money from any source;

13 (5) select a depository or depositories;

14 (6) acquire, own, rent, lease, accept, hold, or
15 dispose of property, or an interest in property, including a right
16 or easement, by purchase, exchange, gift, assignment,
17 condemnation, sale, lease, or otherwise, in performing district
18 duties or exercising district powers under this chapter;

19 (7) hold, manage, operate, or improve property;

20 (8) lease or rent any land, building, structure, or
21 facility from or to any person;

22 (9) sell, assign, lease, encumber, mortgage, or
23 otherwise dispose of property, or an interest in property, and
24 release or relinquish a right, title, claim, lien, interest,
25 easement, or demand, regardless of the manner in which acquired,
26 and conduct a transaction authorized by this subdivision by public
27 or private sale, with or without public bidding;

28 (10) issue bonds, provide for and secure the payment
29 of the bonds, and provide for the rights of the holders of the bonds
30 in the manner and to the extent authorized by this chapter;

31 (11) request and accept any appropriation, grant,
32 allocation, subsidy, guaranty, aid, service, material, or gift from
33 any source, including the federal government, the state, a public
34 agency, or a political subdivision;

1 (12) operate and maintain an office;

2 (13) appoint and determine the duties, tenure,
3 qualifications, and compensation of officers, employees, agents,
4 professional advisors, and counselors considered necessary or
5 advisable by the board, including financial consultants,
6 accountants, attorneys, architects, engineers, appraisers, and
7 financing experts; and

8 (14) exercise any power granted by Chapter 30, Water
9 Code, to districts created under Section 59, Article XVI, Texas
10 Constitution. (Acts 63rd Leg., R.S., Ch. 619, Sec. 6 (part).)

11 Source Law

12 Sec. 6. The district is hereby granted, has, and
13 may exercise all powers necessary or appropriate to
14 carry out, achieve, or effectuate the purposes of this
15 Act, including, without limitation, the following
16 powers:

17 (a) To sue and be sued, and plead and be
18 impleaded, in its own name.

19 (b) To adopt an official seal and alter same
20 when deemed advisable; to adopt and enforce by-laws,
21 and rules and regulations, for the conduct of its
22 affairs, not inconsistent with the provisions of this
23 Act.

24 (c) To acquire, hold, use, and dispose of its
25 revenues, income, receipts, funds, and monies from
26 every source, and to select its depository or
27 depositories.

28 (d) To acquire, own, rent, lease, accept, hold,
29 or dispose of any real, personal, or mixed property, or
30 any interest therein, in performing its duties and
31 exercising its powers under this Act, by purchase,
32 exchange, gift, assignment, condemnation, sale,
33 lease, or otherwise, including rights or easements,
34 and to hold, manage, operate, or improve real,
35 personal, or mixed property.

36 (e) To sell, assign, lease, encumber, mortgage,
37 or otherwise dispose of any real, personal, or mixed
38 property, or any interest therein, and release or
39 relinquish any right, title, claim, lien, interest,
40 easement or demand however acquired, and to do any of
41 the foregoing by public or private sale, with or
42 without public bidding, notwithstanding the
43 provisions of any other law; and to lease or rent any
44 lands, buildings, structures or facilities from or to
45 any person, firm, corporation, city, or other public
46 agency or political subdivision to effectuate the
47 purposes of this Act.

48 (f) To request and to accept any appropriations,
49 grants, allocations, subsidies, guaranties, aid,
50 contributions, services, labor, materials, gifts, or
51 donations from the federal government, the state, any
52 city, public agency, political subdivision, or any
53 other sources.

54 (g) To operate and maintain an office, and to
55 appoint, and determine the duties, tenure,
56 qualifications, and compensation of such officers,

1 employees, agents, and professional advisors, and
2 counsellors, including, without limitation, financial
3 consultants, accountants, attorneys, architects,
4 engineers, appraisers, and financing experts, as are
5 deemed necessary or advisable by the board.

6 (h) To issue its bonds, to provide for and
7 secure the payment thereof, and to provide for the
8 rights of the holders thereof, in the manner and to the
9 extent permitted by this Act.

10 (j) To exercise all powers granted by Chapter 25
11 of the Texas Water Code to Water Districts created
12 under Article XVI, Section 59, of the Texas
13 Constitution.
14

15 Revisor's Note

16 (1) Section 6, Chapter 619, Acts of the 63rd
17 Legislature, Regular Session, 1973, refers to the
18 district's power to "carry out, achieve, or
19 effectuate" certain purposes. The revised law omits
20 "carry out" and "effectuate" because those terms are
21 included in the meaning of "achieve."

22 (2) Section 6, Chapter 619, Acts of the 63rd
23 Legislature, Regular Session, 1973, grants the
24 district certain powers "including, without
25 limitation," the enumerated powers. That section also
26 refers to persons the district may hire "including,
27 without limitation," certain consultants and advisors
28 named in the section. The revised law omits "without
29 limitation" because Section 311.005(13), Government
30 Code (Code Construction Act), provides that
31 "including" is a term of enlargement and not of
32 limitation and does not create a presumption that
33 components not expressed are excluded.

34 (3) Section 6(b), Chapter 619, Acts of the 63rd
35 Legislature, Regular Session, 1973, authorizes the
36 district to adopt an official seal and to "alter same
37 when deemed advisable." The revised law omits the
38 quoted language because the authority to adopt a seal
39 includes the authority to alter it.

40 (4) Section 6(b), Chapter 619, Acts of the 63rd
41 Legislature, Regular Session, 1973, states that the

1 district may adopt and enforce bylaws and "rules and
2 regulations" for the conduct of its affairs "not
3 inconsistent with the provisions of this Act." The
4 revised law omits "regulations" because Section
5 311.005(5), Government Code (Code Construction Act),
6 defines "rule" to include "regulation." The revised
7 law omits "not inconsistent with the provisions of
8 this Act" as unnecessary because as a general
9 principle of law, the district has the authority to
10 take only those actions that are consistent with the
11 law revised in this chapter.

12 (5) Section 6(c), Chapter 619, Acts of the 63rd
13 Legislature, Regular Session, 1973, refers to the
14 district's power regarding its "revenues, income,
15 . . . funds, and monies." The revised law omits
16 "revenues," "income," and "funds" because the meaning
17 of those terms is included in the meaning of "money."
18 Throughout this chapter, the revised law substitutes
19 "money" for "monies" and "funds" (except where a
20 specific type of fund is indicated) because, in
21 context, the meaning is the same and "money" is the
22 more commonly used term.

23 (6) Sections 6(d) and (e), Chapter 619, Acts of
24 the 63rd Legislature, Regular Session, 1973, refer to
25 "real, personal, or mixed property." The revised law
26 omits references to "real," "personal," and "mixed"
27 property because under Section 311.005(4), Government
28 Code (Code Construction Act), "property" includes real
29 and personal and, by extension, mixed property.

30 (7) Section 6(e), Chapter 619, Acts of the 63rd
31 Legislature, Regular Session, 1973, provides that the
32 district may conduct certain property transactions by
33 public or private sale, with or without public
34 bidding, "notwithstanding the provisions of any other

1 law," meaning that provision of Section 6(e) prevails
2 as an exception to a conflicting general law. The
3 revised law omits the quoted language because, under
4 general rules of statutory construction, a statute
5 automatically has the effect of superseding prior
6 conflicting enactments and is ineffective to supersede
7 subsequent legislation. Furthermore, Section 311.026,
8 Government Code (Code Construction Act), provides that
9 if there is a conflict between a general provision of
10 law and a special provision, the special provision
11 prevails unless the general provision is the later
12 enactment and the manifest intent is that the general
13 provision prevail.

14 (8) Section 6(e), Chapter 619, Acts of the 63rd
15 Legislature, Regular Session, 1973, refers to any
16 "person, firm, corporation, city, or other public
17 agency or political subdivision." Throughout this
18 chapter, the revised law substitutes "person" for the
19 quoted language or similar language because Section
20 311.005(2), Government Code (Code Construction Act),
21 defines "person" to include any legal entity.

22 (9) Section 6(f), Chapter 619, Acts of the 63rd
23 Legislature, Regular Session, 1973, provides that the
24 district may request and accept "appropriations,
25 grants, allocations, subsidies, guaranties, aid,
26 contributions, services, labor, materials, gifts, or
27 donations" from any source, including "any city . . .
28 [or] political subdivision." The revised law omits
29 "contributions," "labor," and "donations" because the
30 meaning of those terms is included in the meaning of
31 "aid," "services," or "gifts." The revised law also
32 omits the reference to "city" because "city" is
33 included in the meaning of "political subdivision."

34 (10) Section 6(i), Chapter 619, Acts of the 63rd

1 Legislature, Regular Session, 1973, authorizes the
2 district to fix and "revise from time to time" certain
3 fees for those who use district facilities or services
4 and to charge and collect those fees. The revised law
5 omits the reference to fixing, charging, and
6 collecting fees because it duplicates, in substance,
7 Section 49.212, Water Code. The revised law also omits
8 the reference to revising the fees from time to time
9 because the power to set the fees includes the power to
10 revise them from time to time. The omitted law reads:

11 Sec. 6. [The district is hereby
12 granted, has, and may exercise all powers
13 necessary or appropriate . . . :]
14 . . .

15 (i) To fix and revise from time to
16 time and charge and collect rates, fees, and
17 charges for its facilities and services.
18 . . .

19 (11) Section 6(j), Chapter 619, Acts of the 63rd
20 Legislature, Regular Session, 1973, refers to "Chapter
21 25 of the Texas Water Code." That chapter was revised
22 in 1977 as Chapter 30, Water Code. The revised law is
23 drafted accordingly.

24 Revised Law

25 Sec. 11005.152. PERMITS. (a) The district may obtain
26 through appropriate proceedings an appropriation permit or a
27 diversion permit from the Texas Commission on Environmental
28 Quality.

29 (b) The district may acquire a water appropriation permit
30 from a permit owner by contract or otherwise. (Acts 63rd Leg., R.S.,
31 Ch. 619, Sec. 8 (part).)

32 Source Law

33 Sec. 8. The district is empowered to obtain
34 through appropriate proceedings appropriation permits
35 and diversion permits from the Texas Water Rights
36 Commission. The district is authorized to acquire
37 water appropriation permits from owners of permits
38 through contracting or otherwise. . . .

39 Revisor's Note

40 Section 8, Chapter 619, Acts of the 63rd

1 Legislature, Regular Session, 1973, refers to the
2 "Texas Water Rights Commission." The revised law
3 substitutes "Texas Commission on Environmental
4 Quality" for "Texas Water Rights Commission" to
5 reflect the current name of the agency with the
6 relevant regulatory authority.

7 Revised Law

8 Sec. 11005.153. GENERAL AUTHORITY OF PUBLIC AGENCIES AND
9 POLITICAL SUBDIVISIONS TO CONTRACT WITH DISTRICT. A public agency
10 or political subdivision of this state, including the city, may
11 enter into a contract or agreement with the district, on terms
12 agreed to by the parties, for any purpose relating to the district's
13 powers or functions, including a contract or agreement for a water
14 supply. Approval, notice, consent, or an election is not required
15 in connection with the contract or agreement. (Acts 63rd Leg.,
16 R.S., Ch. 619, Sec. 9(b) (part).)

17 Source Law

18 (b) All public agencies and political
19 subdivisions of the State of Texas, including
20 specifically the City of Muenster, is authorized to
21 enter into contracts and agreements with the district
22 for a water supply, or for any purpose relating to the
23 district's powers or functions, upon such terms and
24 conditions as the parties may agree. . . . No
25 approval, notice or consent whatsoever, nor any
26 election, shall be required in connection with any
27 such contract, agreement, or

28 Revisor's Note

29 Section 9(b), Chapter 619, Acts of the 63rd
30 Legislature, Regular Session, 1973, refers to certain
31 "terms and conditions." Throughout this chapter, the
32 revised law omits the reference to "conditions"
33 because "conditions" is included in the meaning of
34 "terms."

35 Revised Law

36 Sec. 11005.154. DISTRICT AUTHORITY TO CONTRACT TO SUPPLY
37 WATER. (a) The district may contract with municipalities and
38 others, including the city, to supply water to them. The district

1 may sell water inside or outside the boundaries of the district.

2 (b) The district may contract with a public agency or
3 political subdivision for the rental or leasing of or for the
4 operation of the water production, water supply, water filtration
5 or purification, and water supply facilities of the entity on the
6 consideration agreed to by the district and the entity.

7 (c) A contract under Subsection (a) or (b) may:

8 (1) be on terms and for the time agreed to by the
9 parties; and

10 (2) provide that it will continue in effect until
11 bonds specified in it and refunding bonds issued in lieu of the
12 bonds are paid.

13 (d) The district may contract with the city for the
14 operation of the district's water facilities by the city. An
15 election is not required in connection with the contract. (Acts
16 63rd Leg., R.S., Ch. 619, Secs. 9(a) (part), 19.)

17 Source Law

18 Sec. 9. (a) . . . The district is empowered to
19 sell water within and without the boundaries of the
20 district and

21 Sec. 19. (a) The district is authorized to
22 enter into contracts with cities and others, including
23 specifically the City of Muenster, for supplying water
24 to them. The district is also authorized to contract
25 with any city, public agency, or political subdivision
26 for the rental or leasing of, or for the operation of
27 the water production, water supply, water filtration
28 or purification, water supply facilities of such
29 entity upon such consideration as the district and
30 such entity may agree. Any such contract may be upon
31 such terms and for such time as the parties may agree,
32 and it may provide that it shall continue in effect
33 until bonds specified therein and refunding bonds
34 issued in lieu of such bonds are paid. The district is
35 further authorized to contract with the city for the
36 operation of the district's water facilities by the
37 city. No election shall be required in connection with
38 any such contract.

39 Revisor's Note

40 Section 19, Chapter 619, Acts of the 63rd
41 Legislature, Regular Session, 1973, states that the
42 district may contract with any "city, public agency,
43 or political subdivision" for certain district

1 purposes. The revised law omits the reference to a
2 "city" because "city" is included in the meaning of
3 "political subdivision."

4 Revised Law

5 Sec. 11005.155. SOURCES FOR WATER; ACQUISITION OF LAND;
6 STORAGE CAPACITY. (a) The district may acquire or construct,
7 inside or outside the district, a reservoir or any work, plant,
8 transmission line, or other facility necessary or useful to divert,
9 impound, store, treat, or transport to the city and others water for
10 municipal, domestic, industrial, mining, oil flooding, or any other
11 useful purpose.

12 (b) The district may develop or otherwise acquire
13 underground sources of water.

14 (c) The district may acquire land, or an interest in land,
15 inside or outside the district, for any work, plant, or other
16 facility necessary or useful to divert, impound, store, treat, or
17 transport to the city and others water for municipal, domestic,
18 industrial, mining, oil flooding, or any other useful purpose.

19 (d) The district may lease, purchase, or otherwise acquire
20 rights in and to storage and storage capacity in any reservoir
21 constructed or to be constructed by any person or from the United
22 States. (Acts 63rd Leg., R.S., Ch. 619, Secs. 8 (part), 9(a)
23 (part), 10 (part).)

24 Source Law

25 Sec. 8. . . . The district is hereby empowered
26 to lease, purchase, or otherwise acquire rights in and
27 to storage and storage capacity in any reservoir
28 constructed or to be constructed by any person, firm,
29 corporation, public agency, political subdivision,
30 the state, or from the United States or any of its
31 agencies.

32 Sec. 9. (a) . . . The district is authorized
33 to acquire or construct within or without the
34 boundaries of the district a reservoir or reservoirs
35 and all works, plants, transmission lines and other
36 facilities necessary or useful for the purpose of
37 diverting, impounding, storing, treating, and
38 transporting water to the city and others for
39 municipal, domestic, industrial, mining, oil
40 flooding, or any other useful purposes. The district
41 . . . is further empowered and authorized to develop
42 or otherwise acquire underground sources of water.

1 Sec. 10. The district is empowered to acquire
2 land, or any interest therein, within or without the
3 boundaries of the district for all works, plants, and
4 other facilities necessary or useful for the purpose
5 of diverting, impounding, storing, treating, and
6 transporting water to the city and others for
7 municipal, domestic, industrial, mining, oil
8 flooding, and all other useful purposes. . . .

9 Revisor's Note

10 Section 8, Chapter 619, Acts of the 63rd
11 Legislature, Regular Session, 1973, refers to the
12 United States "or any of its agencies." The revised
13 law omits the quoted language because Section
14 311.005(9), Government Code (Code Construction Act),
15 defines the United States to include its agencies.

16 Revised Law

17 Sec. 11005.156. CONSTRUCTION CONTRACTS. (a) The district
18 may award a construction contract that requires an expenditure of
19 more than \$5,000 only after publication of notice to bidders once
20 each week for two weeks in a newspaper of general circulation in the
21 district.

22 (b) The notice is sufficient if it states:

23 (1) the time and place for opening the bids;

24 (2) the general nature of the work to be done or the
25 material, equipment, or supplies to be purchased; and

26 (3) where the terms of bidding and copies of the plans
27 and specifications may be obtained. (Acts 63rd Leg., R.S., Ch. 619,
28 Sec. 12.)

29 Source Law

30 Sec. 12. Any construction contract requiring an
31 expenditure of more than \$5,000 shall be made after
32 publication of a notice to bidders once each week for
33 two weeks in a newspaper of general circulation in the
34 district, before awarding the contract. Such notice
35 shall be sufficient if it states the time and place
36 when and where the bids will be opened, the general
37 nature of the work to be done, or the material,
38 equipment or supplies to be purchased, and states
39 where the terms and conditions of bidding and copies of
40 the plans and specifications may be obtained.

41 Revised Law

42 Sec. 11005.157. CONVEYANCE OF LAND TO DISTRICT. A public
43 agency or political subdivision of this state, including the city,

1 may lease, sell, or otherwise convey its land or an interest in its
2 land to the district for consideration that the parties agree is
3 adequate. Approval, notice, consent, or an election is not
4 required in connection with the conveyance. (Acts 63rd Leg., R.S.,
5 Ch. 619, Sec. 9(b) (part).)

6 Source Law

7 (b) All public agencies and political
8 subdivisions of the State of Texas, including
9 specifically the City of Muenster, Also, each
10 such entity, including specifically the City of
11 Muenster, is authorized to lease, sell, or otherwise
12 convey any of its land or any interest therein to the
13 district for such consideration as is agreed upon
14 between the parties to be adequate. No approval,
15 notice or consent whatsoever, nor any election, shall
16 be required in connection with any such . . .
17 conveyance.

18 Revised Law

19 Sec. 11005.158. SURPLUS PROPERTY. Subject to the terms of a
20 resolution or deed of trust authorizing or securing bonds issued by
21 the district, the district may sell, lease, rent, trade, or
22 otherwise dispose of property that the board considers is not
23 needed for a district purpose. (Acts 63rd Leg., R.S., Ch. 619, Sec.
24 10 (part).)

25 Source Law

26 Sec. 10. . . . Subject to the terms of any
27 resolution or deed of trust authorizing or securing
28 bonds issued by the district, the district may sell,
29 lease, rent, trade, or otherwise dispose of any real or
30 personal property deemed by the board not to be needed
31 for district purposes.

32 Revisor's Note

33 Section 10, Chapter 619, Acts of the 63rd
34 Legislature, Regular Session, 1973, refers to "real or
35 personal property." The revised law omits the
36 references to "real" and "personal" property for the
37 reason stated in Revisor's Note (6) to Section
38 11005.151.

39 Revised Law

40 Sec. 11005.159. EMINENT DOMAIN. (a) To carry out a power
41 conferred by this chapter, the district may exercise the power of

1 eminent domain to acquire the fee simple title to land, or any other
2 interest in land, and other property and easements, inside or
3 outside the district, including land or an interest in land needed
4 for a reservoir, dam, or flood easement above the probable
5 high-water line around a reservoir.

6 (b) The district must exercise the power of eminent domain
7 in the manner provided by Chapter 21, Property Code.

8 (c) The district is a municipal corporation for the purposes
9 of Chapter 21, Property Code.

10 (d) The board shall determine the amount and the type of
11 interest in land, other property, or easements to be acquired under
12 this section. (Acts 63rd Leg., R.S., Ch. 619, Sec. 11(a) (part).)

13 Source Law

14 Sec. 11. (a) For the purpose of carrying out
15 any power or authority conferred by this Act the
16 district shall have the right to acquire the fee simple
17 title to land, or any other interest in land, and other
18 property and easements (including land or any interest
19 therein needed for reservoir and dam and flood
20 easements above the probable high water line around
21 any reservoirs) within or without the boundaries of
22 the district, by condemnation in the manner provided
23 by Title 52, Revised Civil Statutes of Texas, 1925, as
24 amended, relating to eminent domain. This district is
25 hereby declared to be a municipal corporation within
26 the meaning of Title 52. The amount of and character
27 of interest in land, other property and easements thus
28 to be acquired shall be determined by the board. . . .

29 Revisor's Note

30 (1) Section 11(a), Chapter 619, Acts of the 63rd
31 Legislature, Regular Session, 1973, refers to any
32 "power or authority" of the district. Throughout this
33 chapter, the revised law omits "authority" in this
34 context because "authority" is included in the meaning
35 of "power."

36 (2) Section 11(a), Chapter 619, Acts of the 63rd
37 Legislature, Regular Session, 1973, provides that "the
38 district shall have the right to acquire [certain
39 property] by condemnation." The revised law
40 substitutes for the quoted language "the district may
41 exercise the power of eminent domain to acquire

1 [certain property]" because the phrases have the same
2 meaning and the latter phrase is consistent with
3 modern usage in laws relating to eminent domain.

4 (3) Section 11(a), Chapter 619, Acts of the 63rd
5 Legislature, Regular Session, 1973, refers to Title
6 52, Revised Civil Statutes of Texas, 1925, as amended.
7 That statute was codified as Chapter 21, Property
8 Code. The revised law is drafted accordingly.

9 Revised Law

10 Sec. 11005.160. COST OF RELOCATING OR ALTERING PROPERTY;
11 RIGHTS-OF-WAY AND EASEMENTS. (a) If the district's exercise of its
12 eminent domain, police, or other power requires relocating,
13 raising, lowering, rerouting, or changing the grade of or altering
14 the construction of any railroad, electric transmission,
15 telegraph, or telephone line, conduit, pole, property, or facility
16 or pipeline, the action shall be accomplished at the sole expense of
17 the district. The term "sole expense" means the actual cost of the
18 lowering, rerouting, or change in grade or alteration of
19 construction to provide a comparable replacement without enhancing
20 the facility, after deducting from the cost the net salvage value
21 derived from the old facility.

22 (b) The district has all necessary or useful rights-of-way
23 and easements along, over, under, and across all public, state,
24 municipal, and county roads, highways, and places for any of its
25 purposes. The district shall restore a used facility to its
26 previous condition as nearly as possible at the sole expense of the
27 district. (Acts 63rd Leg., R.S., Ch. 619, Secs. 11(b), (c).)

28 Source Law

29 (b) The district is hereby given and granted all
30 necessary or useful rights-of-way and/or easements
31 along, over, under, and across all public, state,
32 city, and county roads, highways, and places for any of
33 its purposes, but the district shall restore any such
34 facilities used to their previous condition as nearly
35 as possible at the sole expense of the district.

36 (c) In the event the district, in the exercise
37 of its power of eminent domain or police power, or any
38 other power requires the relocation, raising,
39 lowering, rerouting, or change in grade or alteration

1 in the construction of any railroad, electric
2 transmission, telegraph, or telephone lines,
3 conduits, poles, properties, or facilities or
4 pipelines, all such relocation, raising, lowering,
5 rerouting, or changes in grade or alteration of
6 construction shall be accomplished at the sole expense
7 of the district. The term "sole expense" shall mean
8 the actual cost of such lowering, rerouting, or change
9 in grade or alteration of construction in providing
10 comparable replacement without enhancement of such
11 facilities, after deducting therefrom the net salvage
12 value derived from the old facility.

13 Revised Law

14 Sec. 11005.161. OTHER DISTRICT POWERS. The district has
15 the same power as is conferred by general law on municipal utility
16 districts or on water control and improvement districts, with
17 reference to entering land and making surveys and attending to
18 other business of the district. (Acts 63rd Leg., R.S., Ch. 619,
19 Sec. 11(a) (part).)

20 Source Law

21 (a) . . . The district shall have the same power
22 as is conferred by general law upon municipal utility
23 districts and/or upon water control and improvement
24 districts, with reference to entering land and making
25 surveys and attending to other business of the
26 district.

27 Revisor's Note
28 (End of Subchapter)

29 (1) Section 9(a), Chapter 619, Acts of the 63rd
30 Legislature, Regular Session, 1973, provides in part
31 that the district may contract with any person for the
32 purchase or sale of water and for any other district
33 purpose. The revised law omits that provision because
34 it duplicates in substance Section 49.213(b), Water
35 Code, which authorizes the district to enter into a
36 contract with any person for any district purpose, and
37 part of Section 49.213(c), Water Code, which
38 authorizes the district to enter into a contract for
39 the purchase or sale of water. The district may
40 enforce a contract or agreement under Section 6(a),
41 Chapter 619, Acts of the 63rd Legislature, Regular
42 Session, 1973, revised in this chapter as Section
43 11005.151(1), and under Section 49.066, Water Code,

1 which provide that the district may sue and be sued.

2 The omitted law reads:

3 Sec. 9. (a) The district is
4 authorized to enter into and enforce
5 contracts and agreements for the purchase
6 or sale of water, and for any other purpose
7 relating to its powers, with any person,
8 firm, corporation, public agency, political
9 subdivision, the state, or from the United
10 States or any of its agencies. . . .

11 (2) Section 9(c), Chapter 619, Acts of the 63rd
12 Legislature, Regular Session, 1973, provides that the
13 rights, powers, privileges, authority, and functions
14 granted to the district are subject to supervision by
15 the state through the Texas Water Rights Commission,
16 subject to "the provisions of this Act, and Chapter 50,
17 Texas Water Code." The revised law omits the provision
18 as unnecessary. As noted by the revisor's note to
19 Section 11005.152, the Texas Commission on
20 Environmental Quality is the successor agency to the
21 former Texas Water Rights Commission, and therefore
22 the provision duplicates in substance part of Section
23 12.081, Water Code, which applies to the district by
24 its own terms. The reference to Chapter 50, Water
25 Code, is omitted because most of Chapter 50 was
26 repealed by Chapter 715, Acts of the 74th Legislature,
27 Regular Session, 1995, and supervision of the district
28 under that chapter is provided only under Section
29 50.107, which, to the extent it may have effect,
30 applies by its own terms. The omitted law reads:

31 (c) The rights, powers, privileges,
32 authority, and functions herein granted to
33 the district shall be subject to the
34 continuing right of supervision of the
35 state, to be exercised by and through the
36 Texas Water Rights Commission, subject to
37 the provisions of this Act, and Chapter 50,
38 Texas Water Code.

39 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

40 Revised Law

41 Sec. 11005.201. DEPOSITORY. (a) The board shall designate

1 one or more banks inside or outside the district to serve as the
2 depository for the district's money.

3 (b) District money shall be deposited in the depository
4 designated by the board, except that:

5 (1) bond proceeds and money pledged to pay bonds, to
6 the extent provided in a resolution or trust indenture authorizing
7 or securing district bonds, may be deposited with another bank or
8 trustee named in the bond resolution or trust indenture; and

9 (2) money shall be remitted to each paying agent for
10 the payment of principal of and interest on the bonds.

11 (c) To the extent that money in a depository bank or trustee
12 bank is not insured by the Federal Deposit Insurance Corporation,
13 the money must be secured in the manner provided by law for the
14 security of municipal money. (Acts 63rd Leg., R.S., Ch. 619, Sec.
15 20 (part).)

16 Source Law

17 Sec. 20. The board shall designate one or more
18 banks within or without the district to serve as
19 depository for the funds of the district. All funds of
20 the district shall be deposited in such depository
21 bank or banks, except that bond proceeds and funds
22 pledged to pay bonds may, to the extent provided in any
23 resolution or trust indenture authorizing or securing
24 bonds of the district, be deposited with any other bank
25 or trustee named in the bond resolution or trust
26 indenture, and except that funds shall be remitted to
27 each paying agent for the payment of principal of and
28 interest on the bonds. To the extent that funds in the
29 depository banks and the trustee bank are not insured
30 by the F.D.I.C., they shall be secured in the manner
31 provided by law for the security of city funds. . . .

32 Revisor's Note

33 Section 20, Chapter 619, Acts of the 63rd
34 Legislature, Regular Session, 1973, refers to the
35 "F.D.I.C." The revised law substitutes a reference to
36 the "Federal Deposit Insurance Corporation" because
37 that is the full name of that entity.

38 Revised Law

39 Sec. 11005.202. INVESTMENT OF DISTRICT MONEY. The board
40 may invest district money in obligations and make time deposits of
41 district money in the manner determined by the board or in the

1 manner permitted or required in a resolution or trust indenture
2 authorizing or securing district bonds. (Acts 63rd Leg., R.S., Ch.
3 619, Sec. 20 (part).)

4 Source Law

5 Sec. 20. . . . The board may invest district
6 funds in obligations and make time deposits of
7 district funds, in such manner as is determined by the
8 board, or in the manner permitted or required in any
9 resolution or trust indenture authorizing or securing
10 bonds of the district.

11 Revised Law

12 Sec. 11005.203. DISTRICT FACILITIES EXEMPT FROM TAXATION
13 AND ASSESSMENT. The district is not required to pay a tax or
14 assessment on its facilities or any part of its facilities. (Acts
15 63rd Leg., R.S., Ch. 619, Sec. 22 (part).)

16 Source Law

17 Sec. 22. . . . The district shall not be
18 required to pay any tax or assessment on its facilities
19 or any part thereof, and

20 Revisor's Note
21 (End of Subchapter)

22 Section 23, Chapter 619, Acts of the 63rd
23 Legislature, Regular Session, 1973, establishes
24 certain procedures relating to the imposition of
25 property taxes. The revised law omits those
26 provisions as superseded by Title 1, Tax Code, which
27 was intended as a comprehensive, substantive
28 codification of all property tax law and its
29 administration. Title 1, Tax Code, was enacted by
30 Chapter 841, Acts of the 66th Legislature, Regular
31 Session, 1979. Section 6(b) of that act repealed all
32 "general, local, and special laws" that conflicted
33 with that act. The omitted law reads:

34 Sec. 23. (a) The tax rolls of the
35 city are hereby adopted and shall
36 constitute the tax rolls of the district
37 until assessment and tax rolls shall be made
38 by the district.

39 (b) [If the district issues and
40 delivers bonds which are payable wholly or
41 partially from ad valorem taxes the board
42 annually shall cause the taxable property

1 in the district to be rendered and assessed
2 for ad valorem taxation, and] the value of
3 such taxable property to be equalized, and
4 . . . in accordance with any of the methods
5 set forth in this section, and any method
6 adopted shall remain in effect until
7 changed by the board.

8 (1) The laws of this state
9 applicable to general law cities and towns
10 may be adopted and shall be used to the
11 extent pertinent and practicable.

12 (2) The laws of this state
13 applicable to counties may be adopted and
14 shall be used to the extent pertinent and
15 practicable, provided that the board shall
16 have the authority to act as its own board
17 of equalization, or to appoint three
18 resident, qualified electors of the
19 district who own taxable property therein
20 to act as the board of equalization of the
21 district, and in either case the board of
22 equalization shall qualify and perform the
23 duties prescribed by law for county
24 commissioners courts acting as boards of
25 equalization.

26 (3) The board shall be
27 authorized to have the taxable property in
28 the district assessed, its values
29 equalized, and/or its taxes collected, in
30 whole or in part, by the tax assessors,
31 board of equalization, and/or tax
32 collectors, respectively, of any county,
33 city, taxing district, or other
34 governmental subdivision in which all or
35 any part of the district is located; and
36 such property may be assessed and the values
37 thereof equalized on the same basis or a
38 different basis than that used by any such
39 governmental subdivision. Such property
40 shall be assessed, the values thereof
41 equalized, and such taxes collected, in the
42 manner and for such compensation as shall be
43 agreed upon between the appropriate
44 parties, and the functions thus assumed by
45 the officials of any such governmental
46 subdivision shall be additional duties
47 pertaining to their offices, respectively.
48 The ad valorem tax law applicable to each
49 such governmental subdivision shall apply
50 to its officials in carrying out such
51 functions for the district.

52 (4) It is specifically
53 provided, however, that under any method
54 used all taxable property within the
55 district shall be assessed on the same basis
56 and the values thereof shall be equalized by
57 only one board of equalization, in an equal
58 and uniform manner, as required by the Texas
59 Constitution. If the board desires that
60 taxable property shall be assessed and
61 taxes collected by the tax assessors and/or
62 collectors of more than one governmental
63 subdivision, the board shall either act as
64 its own board of equalization, or appoint
65 three resident, qualified electors of the
66 district who own taxable property therein
67 to act as the board of equalization, and in
68 either case the board of equalization shall

1 qualify and perform the duties prescribed
2 by law for county commissioners courts
3 acting as boards of equalization.

4 (5) Any other method or
5 procedure authorized or permitted by any
6 other statute of the state may be adopted,
7 in whole or in part, to the extent pertinent
8 and practicable.

9 SUBCHAPTER F. BONDS

10 Revised Law

11 Sec. 11005.251. AUTHORITY TO ISSUE BONDS. (a) The district
12 may issue bonds payable from and secured by revenue or ad valorem
13 taxes, or both revenue and ad valorem taxes, of the district to
14 carry out any power conferred by this chapter. The bonds must be
15 authorized by a board resolution.

16 (b) The bonds must be issued in the manner and under the
17 terms of the resolution authorizing the issuance of the bonds.
18 (Acts 63rd Leg., R.S., Ch. 619, Secs. 14(a), (b) (part), (e)
19 (part).)

20 Source Law

21 Sec. 14. (a) For the purpose of carrying out
22 any power or authority conferred by this Act, the
23 district is empowered to issue its negotiable bonds to
24 be payable from and secured by revenues or ad valorem
25 taxes, or both revenues and ad valorem taxes, of the
26 district, in the manner and under the terms and
27 conditions provided in the resolution authorizing the
28 issuance of the bonds.

29 (b) Such bonds shall be authorized by resolution
30 of the board and

31 (e) The district is also empowered to issue
32 bonds payable from ad valorem taxes . . . to issue
33 bonds secured by and payable from both such taxes and
34 revenues of the district

35 Revisor's Note

36 (1) Section 14(a), Chapter 619, Acts of the 63rd
37 Legislature, Regular Session, 1973, authorizes the
38 district to issue "negotiable" bonds. The revised law
39 omits "negotiable" because Section 1201.041,
40 Government Code, provides that a public security is a
41 negotiable instrument. Throughout this chapter, the
42 revised law omits law that is superseded by Chapter
43 1201, Government Code, or that duplicates law
44 contained in that chapter. Chapter 1201, Government

Code, applies to district bonds under Sections 1201.002 and 1201.003, Government Code.

(2) Section 14(c), Chapter 619, Acts of the 63rd Legislature, Regular Session, 1973, states that bonds may be issued in "more than one series and from time to time as required for carrying out the purposes of this Act." The revised law omits "more than one series" because it duplicates a provision of Section 1201.022, Government Code. The revised law omits "from time to time" because the power to issue bonds implies the power to do so at any time. The revised law omits "as required for carrying out the purposes of this Act" because Section 14(a), Chapter 619, Acts of the 63rd Legislature, Regular Session, 1973, revised as this section, authorizes the district to issue bonds for the purposes of the act. The omitted law reads:

(c) Bonds may be issued in more than one series and from time to time as required for carrying out the purposes of this Act.

Revised Law

Sec. 11005.252. FORM OF BONDS. District bonds must be:

- (1) issued in the district's name;
- (2) signed by the president or vice president; and
- (3) attested by the secretary. (Acts 63rd Leg., R.S., Ch. 619, Sec. 14(b) (part).)

Source Law

(b) Such bonds . . . shall be issued in the name of the district, signed by the president or vice-president, attested by the secretary and

Revisor's Note

Section 14(b), Chapter 619, Acts of the 63rd Legislature, Regular Session, 1973, provides that district bonds must bear the seal of the district and authorizes facsimile "printed or lithographed" signatures and seals. The revised law omits those provisions as unnecessary. The requirement that the

1 bonds bear the seal of the district was impliedly
2 repealed by Section 3, Bond Procedures Act of 1981
3 (Article 717k-6, Vernon's Texas Civil Statutes)
4 (revised in relevant part in 1999 as Section
5 1201.026(a), Government Code), which provides that
6 bonds may be signed with or without a seal. The
7 authorization for the use of printed or lithographed
8 signatures duplicates Section 1201.026(a), Government
9 Code, which also provides that bonds and interest
10 coupons may be executed with manual or facsimile
11 signatures. The omitted law reads:

12 (b) [Such bonds] . . . shall bear the
13 seal of the district. It is provided,
14 however, that the signatures of the
15 president, the vice-president, or the
16 secretary or of both may be printed or
17 lithographed on the bonds if authorized by
18 the board and that the seal of the district
19 may be impressed on the bonds or may be
20 printed or lithographed thereon. . . .

21 Revised Law

22 Sec. 11005.253. MATURITY. District bonds must mature not
23 later than 40 years after the date of their issuance. (Acts 63rd
24 Leg., R.S., Ch. 619, Sec. 14(b) (part).)

25 Source Law

26 (b) . . . The bonds shall mature serially or
27 otherwise in not to exceed 40 years from their date and
28

29 Revisor's Note

30 Section 14(b), Chapter 619, Acts of the 63rd
31 Legislature, Regular Session, 1973, provides that
32 district bonds shall mature "serially or otherwise."
33 The revised law omits the quoted language because it is
34 superseded by Section 1201.021, Government Code
35 (enacted as Section 3, Bond Procedures Act of 1981
36 (Article 717k-6, Vernon's Texas Civil Statutes)),
37 which provides that the governing body of an issuer may
38 determine the time of payment of public securities it
39 issues, and by Section 1201.022, Government Code

1 (enacted as Section 5(a), Bond Procedures Act of 1981
2 (Article 717k-6, Vernon's Texas Civil Statutes)),
3 which provides that a public security may be issued
4 with specified characteristics, on specified terms, or
5 in a specified manner.

6 Revised Law

7 Sec. 11005.254. ELECTION FOR BONDS PAYABLE FROM AD VALOREM
8 TAXES. (a) Bonds, other than refunding bonds, payable wholly or
9 partly from ad valorem taxes may not be issued unless authorized by
10 a majority of the district voters voting at an election held for
11 that purpose.

12 (b) The board may call an election under this section
13 without a petition. The resolution calling the election must
14 specify:

15 (1) the time and place at which the election will be
16 held;

17 (2) the purpose for which the bonds will be issued;

18 (3) the amount of the bonds;

19 (4) the form of the ballot; and

20 (5) other matters the board considers necessary or
21 advisable.

22 (c) Notice of the election must be given by publishing a
23 substantial copy of the resolution calling the election in a
24 newspaper of general circulation in the district. The notice must
25 be published once each week for two consecutive weeks. The first
26 publication must be not later than the 14th day before the date of
27 the election.

28 (d) The district may issue bonds not payable wholly or
29 partly from ad valorem taxes without an election. (Acts 63rd Leg.,
30 R.S., Ch. 619, Secs. 17(a) (part), (b).)

31 Source Law

32 Sec. 17. (a) No bonds payable wholly or
33 partially from ad valorem taxes (except refunding
34 bonds) shall be issued unless authorized at an
35 election at which only the qualified electors who
36 reside in the district and who own taxable property

1 therein and who have duly rendered the same for
2 taxation are allowed to vote and unless a majority of
3 the votes cast is in favor of the issuance of the
4 bonds. . . . Bonds not payable wholly or partially
5 from ad valorem taxes may be issued without an
6 election.

7 (b) Such elections may be called by the board
8 without a petition. The resolution calling the
9 election shall specify the time and place or places of
10 holding the same, the purpose for which the bonds are
11 to be issued, the amount thereof, the form of the
12 ballot, and such other matters as are deemed necessary
13 or advisable by the board. Notice of the election
14 shall be given by publishing a substantial copy of the
15 resolution calling the election in a newspaper having
16 general circulation in the district, once each week
17 for two consecutive weeks, with the first publication
18 to be at least 14 days prior to the election.

19 Revisor's Note

20 (1) Section 17(a), Chapter 619, Acts of the 63rd
21 Legislature, Regular Session, 1973, provides that the
22 district may not issue bonds payable from ad valorem
23 taxes unless authorized by a majority of "the
24 qualified electors who reside in the district and who
25 own taxable property therein and who have duly
26 rendered the same for taxation." The revised law omits
27 the reference to "qualified electors who reside in the
28 district" for the reason stated in Revisor's Note (7)
29 to Section 11005.053. The revised law also omits the
30 reference to voting by persons who own taxable
31 property and render that property for taxation because
32 in Hill v. Stone, 421 U.S. 289 (1975), the United
33 States Supreme Court determined that property
34 ownership as a qualification for voting is an
35 unconstitutional denial of equal protection.

36 (2) Section 17(c), Chapter 619, Acts of the 63rd
37 Legislature, Regular Session, 1973, provides that the
38 board shall receive and canvass election returns. The
39 revised law omits that provision for the reason stated
40 in Revisor's Note (8) to Section 11005.053. The
41 omitted law reads:

42 (c) The returns of the election shall
43 be made to and canvassed by the board.

1 (3) Section 17(d), Chapter 619, Acts of the 63rd
2 Legislature, Regular Session, 1973, provides that the
3 Election Code and general laws relating to elections
4 apply to an election under that section except as
5 otherwise provided by that section. The revised law
6 omits the reference to the Election Code because
7 Section 1.002, Election Code, provides that the
8 Election Code applies to all elections held in this
9 state. An exception to the application of the Election
10 Code would apply by its own terms. The revised law
11 omits the reference to general laws relating to
12 elections because any other general law applicable to
13 district elections would apply by its own terms. The
14 omitted law reads:

15 (d) The Texas Election Code and
16 general laws relating to elections shall be
17 applicable to elections held under this
18 Section, except as otherwise provided
19 herein.

20 Revised Law

21 Sec. 11005.255. BONDS SECURED BY REVENUE; ADDITIONAL BONDS.

22 (a) District bonds issued may be secured by a pledge of all or part
23 of the district's revenue, or by all or part of the revenue of one or
24 more contracts previously or subsequently made or other revenue or
25 income specified by board resolution or a trust indenture securing
26 the bonds. The pledge may reserve the right, under conditions
27 specified by the pledge, to issue additional bonds that will be on a
28 parity with or subordinate to the bonds then being issued.

29 (b) The district may issue bonds secured by both taxes and
30 revenue of the district described by Subsection (a). (Acts 63rd
31 Leg., R.S., Ch. 619, Secs. 14(d), (e) (part).)

32 Source Law

33 (d) The bonds may be secured by a pledge of all
34 or any part of the revenues of the district, or by all
35 or any part of the revenues of any one or more
36 contracts theretofore or thereafter made or other
37 revenues or income specified by resolution of the
38 board or in any trust indenture securing the bonds.
39 Any such pledge may reserve the right, under

1 conditions therein specified, to issue additional
2 bonds which will be on a parity with or subordinate to
3 the bonds then being issued.

4 (e) The district is also empowered to . . .
5 issue bonds secured by and [payable from] both such
6 taxes and revenues of the district described in (d),
7 above. . . .

8 Revised Law

9 Sec. 11005.256. BONDS PAYABLE FROM AD VALOREM TAXES. (a)

10 If bonds are issued payable wholly or partly from ad valorem taxes,
11 the board shall annually impose a tax on the taxable property in the
12 district in an amount sufficient to pay the principal of and
13 interest on the bonds when due.

14 (b) The district may adopt the rate of a tax imposed under
15 Subsection (a) for any year after giving consideration to the money
16 received from the pledged revenue that may be available for payment
17 of principal and interest, to the extent and in the manner permitted
18 by the resolution authorizing the issuance of the bonds. (Acts 63rd
19 Leg., R.S., Ch. 619, Secs. 14(e) (part), 23(b) (part).)

20 Source Law

21 [Sec. 14]

22 (e) [The district is also empowered to issue
23 bonds payable from ad valorem taxes] to be levied on
24 all taxable property therein, or Where bonds
25 are issued payable wholly or partially from ad valorem
26 taxes, it shall be the duty of the board to levy a tax
27 sufficient to pay the principal of and the interest on
28 such bonds when due, but the rate of the tax for any
29 year may be fixed after giving consideration to the
30 money received from the pledged revenues which may be
31 available for payment of principal and interest, to
32 the extent and in the manner permitted by the
33 resolution authorizing the issuance of the bonds.

34 [Sec. 23]

35 (b) If the district issues and delivers bonds
36 which are payable wholly or partially from ad valorem
37 taxes the board annually shall cause the taxable
38 property in the district to be rendered and assessed
39 for ad valorem taxation, and . . . the ad valorem taxes
40 in the district to be collected,

41 Revisor's Note

42 Section 14(e), Chapter 619, Acts of the 63rd
43 Legislature, Regular Session, 1973, provides that the
44 rate of the property tax for any year may be "fixed" by
45 the board. The revised law substitutes "adopt" for
46 "fixed" to conform to the terminology used in Section

1 26.05, Tax Code.

2 Revised Law

3 Sec. 11005.257. ADDITIONAL SECURITY. (a) District bonds,
4 including refunding bonds, that are not payable wholly from ad
5 valorem taxes may be additionally secured, at the discretion of the
6 board, by a deed of trust or mortgage lien on physical property of
7 the district and all franchises, easements, water rights and
8 appropriation permits, leases, and contracts and all rights
9 appurtenant to the property, vesting in the trustee power to:

10 (1) sell the property for the payment of the debt;

11 (2) operate the property; and

12 (3) take other action to further secure the bonds.

13 (b) A purchaser under a sale under the deed of trust lien, if
14 one is given:

15 (1) is the absolute owner of property, facilities, and
16 rights purchased; and

17 (2) is entitled to maintain and operate the property,
18 facilities, and rights. (Acts 63rd Leg., R.S., Ch. 619, Sec. 16
19 (part).)

20 Source Law

21 Sec. 16. Any bonds (including refunding bonds)
22 authorized by this law, not payable wholly from ad
23 valorem taxes, Such bonds, within the
24 discretion of the board, may be additionally secured
25 by a deed of trust or mortgage lien upon physical
26 properties of the district and all franchises,
27 easements, water rights and appropriation permits,
28 leases and contracts and all rights appurtenant to
29 such properties, vesting in the trustee power to sell
30 the properties for the payment of indebtedness, power
31 to operate the properties and all other powers and
32 authority for the further security of the bonds. . . .
33 The purchaser at a sale under the deed of trust lien
34 where one is given, shall be the absolute owner of
35 properties, facilities, and rights so purchased and
36 shall have the right to maintain and operate the same.

37 Revised Law

38 Sec. 11005.258. TRUST INDENTURE. (a) District bonds,
39 including refunding bonds, that are not payable wholly from ad
40 valorem taxes may be additionally secured by a trust indenture. The
41 trustee may be a bank with trust powers located inside or outside

1 the state.

2 (b) A trust indenture, regardless of the existence of a deed
3 of trust or mortgage lien on property, may:

4 (1) provide for the security of the bonds and the
5 preservation of the trust estate as prescribed by the board;

6 (2) provide for amendment or modification of the trust
7 indenture;

8 (3) provide for the issuance of bonds to replace lost
9 or mutilated bonds;

10 (4) condition the right to spend district money or
11 sell district property on the approval of a licensed engineer
12 selected as provided by the trust indenture; and

13 (5) provide for the investment of district money.
14 (Acts 63rd Leg., R.S., Ch. 619, Sec. 16 (part).)

15 Source Law

16 Sec. 16. Any bonds (including refunding bonds)
17 authorized by this law, not payable wholly from ad
18 valorem taxes, may be additionally secured by a trust
19 indenture under which the trustee may be a bank having
20 trust powers situated either within or outside of the
21 state. . . . Such trust indenture, regardless of the
22 existence of the deed of trust or mortgage lien on the
23 properties may contain any provisions prescribed by
24 the board for the security of the bonds and the
25 preservation of the trust estate, and may make
26 provision for amendment or modification thereof and
27 the issuance of bonds to replace lost or mutilated
28 bonds, and may condition the right to expend district
29 money or sell district property upon approval of a
30 registered professional engineer selected as provided
31 therein, and may make provision for the investment of
32 funds of the district. . . .

33 Revisor's Note

34 Section 16, Chapter 619, Acts of the 63rd
35 Legislature, Regular Session, 1973, refers to a
36 "registered professional engineer." The revised law
37 substitutes "licensed engineer" for the quoted
38 language because under Chapter 1001, Occupations Code,
39 engineers are licensed, not registered.

40 Revised Law

41 Sec. 11005.259. RATES FOR SERVICES; PAYMENT OF REVENUE
42 BONDS. (a) If district bonds payable wholly from revenue are

1 issued, the board shall set the rates of compensation for water sold
2 and services provided by the district. The rates must be sufficient
3 to:

4 (1) pay the expense of operating and maintaining
5 district facilities;

6 (2) pay the principal of and interest on the bonds when
7 due; and

8 (3) maintain the reserve fund and other funds as
9 provided in the resolution authorizing the bonds.

10 (b) If bonds payable partly from revenue are issued, the
11 board shall set the rate of compensation for water sold and any
12 other services provided by the district. The rate must be
13 sufficient to ensure compliance with the resolution authorizing the
14 bonds or the trust indenture securing the bonds. (Acts 63rd Leg.,
15 R.S., Ch. 619, Sec. 14(f).)

16 Source Law

17 (f) Where bonds payable wholly from revenues are
18 issued, it shall be the duty of the board to fix, and
19 from time to time to revise, the rates of compensation
20 for water sold and services rendered by the district
21 which will be sufficient to pay the expense of
22 operating and maintaining the facilities of the
23 district and to pay the principal of and interest on
24 the bonds when due, and to maintain the reserve and
25 other funds as provided in the resolution authorizing
26 the bonds. Where bonds payable partially from
27 revenues are issued it shall be the duty of the board
28 to fix, and from time to time revise, the rate of
29 compensation for water sold, and any other services
30 rendered by the district, which will be sufficient to
31 assure compliance with the resolution authorizing the
32 bonds or the trust indenture securing such bonds.

33 Revisor's Note

34 (1) Section 14(f), Chapter 619, Acts of the 63rd
35 Legislature, Regular Session, 1973, provides that the
36 board shall "fix" the rates the district charges for
37 water sold and services provided by the district. The
38 revised law substitutes "set" for "fix" for the reason
39 stated in Revisor's Note (4) to Section 11005.053.

40 (2) Section 14(f), Chapter 619, Acts of the 63rd
41 Legislature, Regular Session, 1973, provides that the

1 board shall fix "from time to time" and "revise" the
2 rates the district charges for water sold and services
3 provided by the district. The revised law omits the
4 quoted language because the duty to set the rates
5 includes the duty to revise them from time to time.

6 Revised Law

7 Sec. 11005.260. USE OF BOND PROCEEDS. (a) The district may
8 set aside an amount of proceeds from the sale of district bonds for:

9 (1) the payment of interest expected to accrue during
10 construction not to exceed three years;

11 (2) a reserve interest and sinking fund; and

12 (3) other funds as may be provided in the resolution
13 authorizing the bonds or in the trust indenture.

14 (b) The district may use proceeds from the sale of the bonds
15 to pay any expense necessarily incurred in accomplishing the
16 purpose of the district, including any expense of issuing and
17 selling the bonds. (Acts 63rd Leg., R.S., Ch. 619, Sec. 14(g).)

18 Source Law

19 (g) From the proceeds from the sale of the
20 bonds, the district may set aside an amount for the
21 payment of interest expected to accrue during
22 construction not to exceed three years, a reserve
23 interest and sinking fund and such other funds as may
24 be provided in the resolution authorizing the bonds or
25 in the trust indenture. Proceeds from the sale of the
26 bonds may also be used for the payment of all expenses
27 necessarily incurred in accomplishing the purpose for
28 which this district is created, including expenses of
29 issuing and selling the bonds.

30 Revised Law

31 Sec. 11005.261. APPOINTMENT OF RECEIVER. (a) On default or
32 threatened default in the payment of the principal of or interest on
33 district bonds that are payable wholly or partly from revenue, a
34 court may, on petition of the holders of outstanding bonds, appoint
35 a receiver for the district.

36 (b) The receiver may collect and receive all district
37 income, except taxes, employ and discharge district agents and
38 employees, take charge of money on hand, except money received from
39 taxes, unless commingled, and manage the proprietary affairs of the

1 district without consent or hindrance by the board.

2 (c) The receiver may be authorized to sell or contract for
3 the sale of water or to renew those contracts with the approval of
4 the court that appointed the receiver.

5 (d) The court may vest the receiver with any other power or
6 duty the court finds necessary to protect the bondholders. (Acts
7 63rd Leg., R.S., Ch. 619, Sec. 14(h) (part).)

8 Source Law

9 (h) In the event of a default or a threatened
10 default in the payment of principal of or interest on
11 bonds payable wholly or partially from revenues, any
12 court of competent jurisdiction may, upon petition of
13 the holders of outstanding bonds, appoint a receiver
14 with authority to collect and receive all income of the
15 district, except taxes, employ and discharge agents
16 and employees of the district, take charge of funds on
17 hand (except funds received from taxes, unless
18 commingled) and manage the proprietary affairs of the
19 district without consent or hindrance by the board.
20 Such receiver may also be authorized to sell or make
21 contracts for the sale of water or renew such contracts
22 with the approval of the court appointing him. The
23 court may vest the receiver with such other powers and
24 duties as the court may find necessary for the
25 protection of the holders of the bonds. . . .

26 Revisor's Note

27 Section 14(h), Chapter 619, Acts of the 63rd
28 Legislature, Regular Session, 1973, refers to a court
29 "of competent jurisdiction." The revised law omits
30 the quoted language because the general laws of civil
31 jurisdiction determine which courts have "competent
32 jurisdiction" over a matter. For example, see Section
33 24.003, Government Code, for the jurisdiction of
34 certain district courts to appoint receivers.

35 Revised Law

36 Sec. 11005.262. REFUNDING BONDS. (a) The district may
37 issue refunding bonds to refund outstanding district bonds and
38 interest on those bonds.

39 (b) Refunding bonds may:

- 40 (1) be issued to refund bonds of more than one series;
41 (2) combine the pledges for the outstanding bonds for
42 the security of the refunding bonds; or

1 (3) be secured by a pledge of other or additional
2 revenue or mortgage liens.

3 (c) The provisions of this subchapter regarding the
4 issuance of other bonds, their security, and the remedies of the
5 holders apply to refunding bonds.

6 (d) The comptroller shall register the refunding bonds on
7 surrender and cancellation of the bonds to be refunded.

8 (e) Instead of issuing bonds to be registered on the
9 surrender and cancellation of the bonds to be refunded, the
10 district, in the resolution authorizing the issuance of the
11 refunding bonds, may provide for the sale of the refunding bonds and
12 the deposit of the proceeds in a bank at which the bonds to be
13 refunded are payable. In that case, the refunding bonds may be
14 issued in an amount sufficient to pay the principal of and interest
15 and any required redemption premium on the bonds to be refunded to
16 any redemption date or to their maturity date, and the comptroller
17 shall register the refunding bonds without the surrender and
18 cancellation of the bonds to be refunded.

19 (f) An election is not required to authorize the issuance of
20 refunding bonds.

21 (g) The district may also issue refunding bonds under any
22 other applicable law. (Acts 63rd Leg., R.S., Ch. 619, Sec. 15.)

23 Source Law

24 Sec. 15. The district is authorized to issue
25 refunding bonds for the purpose of refunding any
26 outstanding bonds authorized by this Act and interest
27 thereon. Such refunding bonds may be issued to refund
28 more than one series of outstanding bonds and combine
29 the pledges for the outstanding bonds for the security
30 of the refunding bonds, and may be secured by other or
31 additional revenues and mortgage liens. The
32 provisions of this Act with reference to the issuance
33 by the district of other bonds, their security, and
34 their approval by the attorney general and the
35 remedies of the holders shall be applicable to
36 refunding bonds. Refunding bonds shall be registered
37 by the comptroller upon surrender and cancellation of
38 the bonds to be refunded, but in lieu thereof, the
39 resolution authorizing their issuance may provide that
40 they shall be sold and the proceeds thereof deposited
41 in the bank where the original bonds are payable, in
42 which case the refunding bonds may be issued in an
43 amount sufficient to pay all principal coming due, all
44 interest accruing, and any required redemption

1 premium, on the bonds being refunded to or through any
2 date upon which they are subject to redemption prior to
3 maturity, or through or at their maturity date or
4 dates, respectively, and the comptroller shall
5 register them without concurrent surrender and
6 cancellation of the original bonds. Such refunding
7 bonds may be issued without having been authorized at
8 an election. Refunding bonds also may be issued by the
9 district pursuant to any other applicable law.

10 Revisor's Note

11 Section 15, Chapter 619, Acts of the 63rd
12 Legislature, Regular Session, 1973, refers to the
13 "approval by the attorney general" of refunding bonds.
14 The revised law omits the quoted language because it is
15 superseded by Section 1202.003, Government Code,
16 enacted in 1987 as Section 3.002(a), Chapter 53, Acts
17 of the 70th Legislature, 2nd Called Session (Article
18 717k-8, Vernon's Texas Civil Statutes). Throughout
19 this chapter, the revised law omits law that is
20 superseded by Chapter 1202, Government Code, or that
21 duplicates law contained in that chapter. Chapter
22 1202, Government Code, applies to district bonds under
23 Sections 1202.001 and 1202.003(c), Government Code.

24 Revised Law

25 Sec. 11005.263. LIMITATION ON RIGHTS OF BONDHOLDERS. The
26 resolution authorizing the bonds or the trust indenture securing
27 the bonds may limit or qualify the rights of the holders of less
28 than all of the outstanding bonds payable from the same source to
29 institute or prosecute litigation affecting the district's
30 property or income. (Acts 63rd Leg., R.S., Ch. 619, Sec. 14(h)
31 (part).)

32 Source Law

33 (h) . . . The resolution authorizing the
34 issuance of the bonds, or the trust indenture securing
35 them, may limit or qualify the rights of the holders of
36 less than all of the outstanding bonds payable from the
37 same source to institute or prosecute litigation
38 affecting the district's property or income.

39 Revised Law

40 Sec. 11005.264. BONDS EXEMPT FROM TAXATION. A district
41 bond, the transfer of the bond, and the income from the bond,

1 including profits made on the sale of the bond, are exempt from
2 taxation in this state. (Acts 63rd Leg., R.S., Ch. 619, Sec. 22
3 (part).)

4 Source Law

5 Sec. 22. . . . the bonds issued thereunder and
6 their transfer and the income therefrom, including the
7 profits made on the sale thereof, shall at all times be
8 free from taxation within this state.

9 Revisor's Note
10 (End of Subchapter)

11 (1) Section 14(b), Chapter 619, Acts of the 63rd
12 Legislature, Regular Session, 1973, provides that
13 district bonds may be sold "at a price and under terms
14 determined by the board to be the most advantageous
15 reasonably obtainable." The revised law omits the
16 quoted language because it is superseded by Section
17 1201.022, Government Code, which provides that an
18 issuer may sell public securities "under the terms
19 determined by the governing body of the issuer to be in
20 the issuer's best interests." The omitted law reads:

21 (b) . . . [The bonds] . . . may be
22 sold at a price and under terms determined
23 by the board to be the most advantageous
24 reasonably obtainable,

25 (2) Section 14(b), Chapter 619, Acts of the 63rd
26 Legislature, Regular Session, 1973, provides that
27 district bonds may bear interest at a rate not to
28 exceed 10 percent. The revised law omits that
29 provision because it is superseded by other law.
30 Section 14(b) was enacted in 1973 and was impliedly
31 amended by the subsequent amendment of Chapter 3, Acts
32 of the 61st Legislature, Regular Session, 1969
33 (Article 717k-2, Vernon's Texas Civil Statutes). The
34 maximum interest rate noted in Chapter 3 was revised in
35 1999 as Section 1204.006, Government Code. Section
36 1204.006 permits a public agency to issue public
37 securities at any net effective interest rate of 15

1 percent or less. Section 1204.006, Government Code,
2 applies to district bonds by application of Sections
3 1204.001 and 1204.002, Government Code. The omitted
4 law reads:

5 (b) . . . [The bonds] . . . [may be
6 sold] . . . provided that the interest cost
7 to the district, including the discount, if
8 any, does not exceed ten percent per annum,
9 and

10 (3) Section 14(b), Chapter 619, Acts of the 63rd
11 Legislature, Regular Session, 1973, provides that
12 district bonds may be redeemed before maturity at the
13 time and price specified in the bonds. The revised law
14 omits that provision because it duplicates Sections
15 1201.021 and 1201.022, Government Code, which provide
16 that a public security may be redeemed before maturity
17 and be payable in specified amounts and at specified
18 times. The omitted law reads:

19 (b) . . . [The bonds] . . . within
20 the discretion of the board may be made
21 callable prior to maturity at such times and
22 prices as may be prescribed in the bonds,
23 and

24 (4) Section 14(b), Chapter 619, Acts of the 63rd
25 Legislature, Regular Session, 1973, provides that
26 district bonds may be made registrable as to principal
27 or as to principal and interest. The revised law omits
28 that provision because it duplicates Section
29 1201.024(a)(3), Government Code. The omitted law
30 reads:

31 (b) . . . [The bonds] . . . may be
32 made registerable as to principal or as to
33 both principal and interest.

34 (5) Section 17(e), Chapter 619, Acts of the 63rd
35 Legislature, Regular Session, 1973, requires the
36 district to secure approval from the Texas Water
37 Rights Commission (now the Texas Commission on
38 Environmental Quality, as noted in the revisor's note
39 to Section 11005.152) before issuing bonds for

1 improvements, as provided by Section 51.421, Water
2 Code. Chapter 715, Acts of the 74th Legislature,
3 Regular Session, 1995, repealed Section 51.421, Water
4 Code, and enacted Section 49.181, Water Code, to
5 govern the authority of the commission over the
6 issuance of district bonds. A reference to Section
7 49.181, Water Code, is unnecessary because that
8 section applies to the district under Sections 49.001
9 and 49.002, Water Code, without an express reference
10 to that section in this chapter. The omitted law
11 reads:

12 (e) That provided that before the
13 district shall issue any bonds for such
14 improvements, it shall secure prior
15 approval from the Texas Water Rights
16 Commission as provided by Section 51.421,
17 Texas Water Code.

18 (6) Section 18, Chapter 619, Acts of the 63rd
19 Legislature, Regular Session, 1973, requires the
20 district to deliver its bonds to the attorney general
21 for examination and approval. The revised law omits
22 that provision because it duplicates in substance
23 Section 1202.003, Government Code. The omitted law
24 reads:

25 Sec. 18. After any bonds (including
26 refunding bonds) are authorized by the
27 district, such bonds and the proceedings
28 relating to their issuance shall be
29 submitted to the attorney general of Texas
30 for his examination as to the validity
31 thereof. . . . If he finds that such bonds
32 have been authorized and . . . in
33 accordance with the Constitution and laws
34 of the State of Texas he shall approve the
35 bonds and

36 (7) Section 18, Chapter 619, Acts of the 63rd
37 Legislature, Regular Session, 1973, provides that
38 after approval the bonds shall be registered with the
39 comptroller. The revised law omits that provision
40 because it duplicates in substance Section 1202.005,
41 Government Code. The omitted law reads:

1 Sec. 18. . . . [he shall approve the
2 bonds and] . . . the bonds then shall be
3 registered by the Comptroller of Public
4 Accounts. . . .

5 (8) Section 18, Chapter 619, Acts of the 63rd
6 Legislature, Regular Session, 1973, provides that
7 after approval and registration, district bonds shall
8 be incontestable and binding obligations. The revised
9 law omits that provision because it duplicates in
10 substance Section 1202.006, Government Code, which
11 provides that after approval and registration, bonds
12 are incontestable for any reason. The omitted law
13 reads:

14 Sec. 18. . . . Thereafter the bonds,
15 and . . . shall be valid and binding
16 obligations in accordance with their terms
17 for all purposes, and shall be
18 incontestable in any court, or other forum,
19 for any reason.

20 (9) Section 18, Chapter 619, Acts of the 63rd
21 Legislature, Regular Session, 1973, details various
22 procedures regarding approval of bond contracts and
23 proceedings by the attorney general. The revised law
24 omits the portion of Section 18 regarding the validity
25 and incontestability of a contract the revenue or
26 proceeds of which are pledged to the payment of a bond
27 because it duplicates in substance Section 1202.006,
28 Government Code, which provides that after approval
29 and registration of the bond, the bond and contract are
30 incontestable for any reason. The omitted law reads:

31 Sec. 18. . . . If such bonds recite
32 that they are secured by a pledge of the
33 revenues or proceeds of a contract
34 theretofore made between the district and
35 any city, or other public agency or
36 political subdivision, or other entity, a
37 copy of such contract and the proceedings of
38 the city or other public agency or political
39 subdivision, or other entity, authorizing
40 such contract also shall be submitted to the
41 attorney general. [If he finds that] . . .
42 such contracts have been made [in
43 accordance with the Constitution and laws
44 of the State of Texas he shall approve]
45 . . . such contracts, and
46 [Thereafter] . . . the contracts, if any,

1 [shall be valid and binding obligations in
2 accordance with their terms for all
3 purposes, and shall be incontestable in any
4 court, or other forum, for any reason.]

5 (10) Section 21, Chapter 619, Acts of the 63rd
6 Legislature, Regular Session, 1973, lists the entities
7 for which district bonds are legal investments and
8 provides that district bonds may secure deposits of
9 public funds of the state or political subdivisions.
10 The revised law omits the provision relating to the
11 eligibility of district bonds to be considered as
12 investments for various entities because it duplicates
13 Section 49.186(a), Water Code. While Section 21 lists
14 "guardians" and Section 49.186(a), Water Code, does
15 not, the latter statute includes "fiduciaries," and a
16 guardian is a fiduciary. The revised law omits the
17 provision relating to securing deposits of state funds
18 as impliedly repealed by Section 404.0221, Government
19 Code (enacted in 1995), which lists eligible
20 collateral for deposits of state funds by the
21 comptroller, and by Section 404.031, Government Code
22 (enacted in 1985 as Section 3.001, Article 4393-1,
23 Vernon's Texas Civil Statutes), which provides for the
24 valuation of that collateral. As to securing deposits
25 of other funds, the provision is impliedly repealed by
26 Chapter 2257, Government Code (enacted in 1989 as
27 Article 2529d, Vernon's Texas Civil Statutes), which
28 governs eligible collateral for deposits of funds of
29 certain public agencies, including political
30 subdivisions, and permits those deposits to be secured
31 by obligations issued by conservation and reclamation
32 districts. The omitted law reads:

33 Sec. 21. All bonds of the district
34 shall be and are hereby declared to be legal
35 and authorized investments for banks,
36 savings banks, trust companies, building
37 and loan associations, insurance companies,
38 fiduciaries, trustees, guardians, and for
39 the sinking fund of cities, towns,

1 villages, counties, school districts, or
2 other political corporations or
3 subdivisions of the State of Texas. Such
4 bonds shall be eligible to secure the
5 deposit of any and all public funds of the
6 State of Texas, and any and all public funds
7 of cities, towns, villages, counties,
8 school districts, or other political
9 corporations or subdivisions of the State
10 of Texas; and such bonds shall be lawful and
11 sufficient security for said deposits to
12 the extent of their value, when accompanied
13 by all unmatured coupons appurtenant
14 thereto.

15 Revisor's Note
16 (End of Chapter)

17 (1) Section 24, Chapter 619, Acts of the 63rd
18 Legislature, Regular Session, 1973, provides in part
19 that the act is sufficient authority for the issuance
20 of bonds, the execution of contracts and conveyances,
21 and the performance of other authorized acts by the
22 district, the city of Muenster, and all other public
23 agencies and political subdivisions, without
24 reference to any other law or any restrictions or
25 limitations contained in another law, except as
26 specifically provided by the act, and that in case of
27 certain conflicts between the act and any other law,
28 the act prevails.

29 The revised law omits the statement that the act
30 is sufficient authority for the performance of acts
31 authorized by the act because it is unnecessary. The
32 operative provisions of the act are fully effective on
33 their own terms.

34 The revised law omits the statement that other
35 laws or restrictions or limitations contained in those
36 laws do not apply and that in case of certain conflicts
37 between the act and other law the act prevails because
38 it is both unnecessary and potentially misleading. An
39 accepted general principle of statutory construction
40 requires a statute to be given cumulative effect with
41 other statutes unless it provides otherwise or unless

1 the statutes are in conflict. To the extent the
2 statement means the act prevails over other law in
3 existence at the time the act became effective and with
4 which the act conflicts, it merely restates general
5 rules of statutory construction. To the extent the
6 statement means the act prevails over future
7 enactments of the legislature that may conflict with
8 it, it is misleading. It is a fundamental principle of
9 statutory construction that one session of the
10 legislature may not bind a future session of the
11 legislature. In addition, Section 311.026, Government
12 Code (Code Construction Act), governs the
13 interpretation of the revised law in instances of
14 apparent conflict with other laws.

15 Finally, codification of the statement is
16 potentially misleading because the revised law not
17 only omits provisions of the act that are impliedly
18 repealed by other law, it also omits provisions that
19 are duplicative of other law. Codification of the
20 statement might create an impression that the
21 provisions of other law that duplicate the omitted
22 provisions do not apply.

23 Section 24 also provides that the district, the
24 city of Muenster, and all other public agencies and
25 political subdivisions may use the provisions of other
26 laws that do not conflict with the act to carry out any
27 power granted by the act. The revised law omits that
28 provision as unnecessary. The operative provisions of
29 other applicable laws are fully effective on their own
30 terms. The omitted law reads:

31 Sec. 24. This Act shall be wholly
32 sufficient authority within itself for the
33 issuance of the bonds, the execution of
34 contracts, and conveyances, and the
35 performance of the other acts and
36 procedures authorized herein by the
37 district, the City of Muenster, and all

1 other public agencies and political
2 subdivisions, without reference to any
3 other law or any restrictions or
4 limitations contained therein, except as
5 herein specifically provided; and when any
6 bonds are being issued or other action taken
7 under this Act, then to the extent of any
8 conflict or inconsistency between any
9 provisions of this Act and any provisions of
10 any other law, the provisions of this Act
11 shall prevail and control; provided,
12 however, that the district, the City of
13 Muenster, and all other public agencies and
14 political subdivisions, shall have the
15 right to use the provisions of any other
16 laws, not in conflict with the provisions
17 hereof, to the extent convenient or
18 necessary to carry out any power or
19 authority, express or implied, granted by
20 this Act.

21 (2) Section 25, Chapter 619, Acts of the 63rd
22 Legislature, Regular Session, 1973, provides that the
23 act is severable. The revised law omits that provision
24 because the same result is produced by application of
25 Section 311.032, Government Code (Code Construction
26 Act), which provides that a provision of a statute is
27 severable from each other provision of the statute
28 that can be given effect. The omitted law reads:

29 Sec. 25. In case any one or more of
30 the sections, provisions, clauses, or words
31 of this Act, or the application thereof to
32 any situation or circumstance, shall for
33 any reason be held to be invalid or
34 unconstitutional, such invalidity or
35 unconstitutionality shall not affect any
36 other sections, provisions, clauses, or
37 words of this Act, or the application
38 thereof to any other situation or
39 circumstance, and it is intended that this
40 Act shall be severable and shall be
41 construed and applied as if any such invalid
42 or unconstitutional section, provision,
43 clause, or word had not been included
44 herein.

45 (3) Section 26, Chapter 619, Acts of the 63rd
46 Legislature, Regular Session, 1973, provides that
47 proof of publication of the constitutionally required
48 notice has been made. The revised law omits that
49 provision as executed. The omitted law reads:

50 Sec. 26. Proof of publication of the
51 constitutional notice required in the
52 enactment hereof under the provisions of
53 Article XVI, Section 59(d), of the Texas

1 Constitution, has been made in the manner
2 provided therein and a copy of said notice
3 and the bill as originally introduced have
4 been delivered to the Governor of the State
5 of Texas as required in such constitutional
6 provision, and such notice and delivery are
7 hereby found and declared to be proper and
8 sufficient to satisfy such requirements.